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TOWARDS A NEW ROLE FOR CIVIL SOCIETY IN THE DEMOCRATIZATION OF GUATEMALA

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TRANSLATED FROM SPANISH BY PETER FELDSTEIN
INTERNATIONAL CENTRE FOR HUMAN RIGHTS
AND DEMOCRATIC DEVELOPMENT
MONTREAL, CANADA
FEBRUARY 1996

10 ans / years

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Legal deposit :

Bibliothèque nationale du Québec, third quarter, 1996.
National Library of Canada, third quarter, 1996.

ISBN : 2-922084-06-x

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TRANSLATOR'S NOTE: Where a readily available official English translation exists for quoted material, it has been provided; elsewhere, the translator's version is given. The English names for government and international agencies, agreements and so forth follow MINUGUA and other authoritative sources. However, instead of providing English equivalents for most important Guatemalan non-governmental organizations, their names were left in Spanish and a descriptive phrase was added where the original text did not specify their function.

EDITOR'S NOTE: As a complement to this study, the authors have prepared a 55-page appendix which briefly describes 40 organisations belonging to the following seven sectors: the trade union movement, the peasant movement, the popular movement, the Mayan peoples' movement, women's organisations, human rights organisations, non-governmental development organisations. This appendix, titled "Separata del Estudio Hacia un Nuevo Rol Ciudadano para Democratizar Guatemala" has not been translated into English.

101-03667/

THE MANDATE OF THE CENTRE

The International Centre for Human Rights and Democratic Development was created by a law of the Parliament of Canada on September 30, 1988, and was officially inaugurated on October 10, 1990.

Under the leadership of its interim President, Mrs. Maureen O'Neil, the Centre's Board of Directors comprises thirteen members, three of whom must be from developing countries. Dr. Kamal Hossain of Bangladesh and Mrs. Akua Kuenyehia of Ghana allow the Centre to benefit from their in-depth knowledge of the needs and priorities of southern countries. The Centre at present is awaiting the nomination of a Board Member from Latin America.

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EXECUTIVE SUMMARY

The challenge facing Guatemala today consists largely in laying the foundations of an authentic social dialogue. But this requires a solid understanding of the roles of the State and of civil society as well as their relationships within the current process of democratization.

Chapter I analyses the evolution of the Guatemalan state. The structural problems relating to democratization are studied and those that are most central are highlighted.

The authors begin by noting the absence, throughout Guatemala's political history, of fluid yet stable mechanisms for establishing mediation and communication between government and the governed. Public authority has been concentrated in the hands of the economic and military elites. The government has shown itself to be authoritarian and violent, severely repressing the indigenous majority and promoting economic exploitation.

The predominance of the military in affairs of state since 1954 has led to the extremely high level of militarization of the society.

Aware of how effete the authoritarian model of government had become, the military itself conceived and promoted the return to democracy in 1985. The new Constitution paved the way for the creation of democratic institutions and legislation designed to guarantee citizens' rights. However, the changes instituted to date have been largely *pro forma*. They have not been accompanied by concrete initiatives addressing the three main political problems: impunity, inadequate public security and the centralization of power. To illustrate these problems, the authors review two elements that are essential to every democracy: the justice system and political participation.

The Justice System

Due to pressure from the international community and the presence of MINUGUA (United Nations Mission for the Verification of Human Rights in Guatemala) in the country since late 1994, the criminal justice system has evolved somewhat in recent years (creation of the Public Prosecutor's Office, entry into force of the new Code of Criminal Procedure, etc.). But the central problem remains the absence of independence of the judiciary. This affects both the judges and the Public Prosecutor's Office, rendering them powerless to dismantle a firmly established system of impunity. As for the national police, it is insufficiently staffed with qualified personnel and remains compromised by the relationships of some of its elements with militarized groups.

Political Participation

Effective mechanisms to give citizens input into policy-making in regard to the problems that most affect them (such as difficult living conditions) have not yet been implemented. Control over vital decisions remains in the hands of the dominant (internal or external) groups. The system of political representation has not been structured in such a way as to channel demands from the population to the seats of political power. This is evident in the workings of Congress, where represented political parties do not base their activity on programs and global strategies but rather on the demands of the moment and personal interest. This has led to mistrust and indifference on the part of the population.

Given these conditions, Guatemala's is a limited democracy in which what the authors term "low-intensity citizenship" predominates.

Chapter II recounts a sequence of events that have shaped the last two years of Guatemala's history, pointing the way forward in the ongoing process of democratization:

1- The current Guatemalan dynamic was set in motion by the institutional crisis created when, in May 1993, President Jorge Serrano staged a "self-coup" (*autogolpe*), assuming dictatorial power, dissolving Congress and suspending portions of the Constitution. The self-coup pointed up the political fragility of the 1985 draft constitution. It also opened the door to important shifts in Guatemalan political traditions. The National Consensus Authority (INC) became the first instance of a group of disparate social sectors succeeding, for a time, in building a common front focusing on the urgent need to re-establish constitutional order.

2- Ramiro de Leon Carpio's election to the presidency was the result of this effort to create a consensus among the various social sectors, particularly on the need for a "house-cleaning" of the legislative and judicial branches. Unfortunately, relations between the new president and the popular sectors rapidly deteriorated. The promised house-cleaning and the constitutional changes proposed during the 1994 referendum (84% abstention) were only superficial, having been undermined by pressure from the military and the business community.

3- The resumption of the peace negotiations between the government and URNG (National Revolutionary Unity, the armed left-wing opposition) in January 1994 constitutes the most important event in the current democratization process. The agreements signed so far have become valuable instruments that will help to deepen the transformations taking place within the State and society. Moreover, the negotiations have led to the creation of forums for dialogue among social sectors that had, until recently, maintained irreconcilable political and ideological positions.

4- The ASC (Assembly of Civil Society) includes representation from all social sectors except the business community. Its mission is to produce consensus documents on each substantive issue (*temática sustantiva*) to be dealt with as part of the peace process. It is the most encouraging exemplar of these new forums.

Despite the various obstacles encountered, most participants agree that the ASC has been a learning experience in negotiating techniques and proposal development skills, which have eclipsed the radical confrontational style previously characteristic of the popular movement.

5- The participation of the business sector in the negotiation process has been sporadic — marginal compared with that of the other social sectors. Its representatives have generally shown by their actions that they oppose anything that could jeopardize their traditional prerogatives (progressive tax reform, for example). Yet there are clearly divergent tendencies within the business community, ranging from conservative to modernizing and relatively consensus-friendly.

6- The General Human Rights Accord constituted the birth certificate of the United Nations Mission for the Verification of Human Rights in Guatemala (MINUGUA). Since its deployment in September 1994, MINUGUA has, to a certain extent, served as a deterrent against human rights violations. Its reports have been distinguished so far by their frank, clear-sighted observations, indicating what remains to be done to change structures within which human rights violations can still be perpetrated with impunity.

7- The campaign for the December 1995 presidential elections got underway with former dictator Rios Montt declaring his intention to run. His candidacy was disallowed, but his party remained the country's second most powerful political force. The new president, Alvaro Arzú, was a modernizing right-wing candidate with close ties to, but also some divergences from, the business community. His party captured a majority of seats in Congress.

Three positive events in this electoral process are noteworthy:

- the civic education and electoral supervision initiatives of the NGOs;
- increased participation by the "civic committees," testifying to renewed community vitality and the public's desire to take part in decision-making;
- the positive results obtained by the Democratic Front for a New Guatemala (FDNG), the first left-wing political grouping to participate in elections in forty years, opening the door to the reincorporation of the revolutionary left into political life.

Chapter III offers a comprehensive review of the organizations of civil society and their relationships among themselves and with the State.

Union and Popular Movement

As a result of being almost completely excluded from political participation and from mechanisms for resolving economic and social conflict, the union and popular movement has, from its inception, tended toward radicalization. It thus found a natural ally in the revolutionary left. In the repressive context of the 1970s, its discourse was mainly political, focusing on the struggle against the military, rather than on defending its members' aspirations. At the height of the violent repression in the early 1980s, most of these organizations were dismembered and their leaders persecuted.

The formation of the Union and Popular Action Movement (UASP) in 1988 marked the start of a regrouping process for the union and popular movement. UASP rapidly became the primary channel for popular demands. However, its leaders did not manage to free themselves from notions and methods of struggle inherited from the earlier period. Their capacity to formulate proposals and go beyond ad hoc demands remained limited. With the start of the peace negotiations in 1991, the union and popular organizations gradually learned the art of consensus building and intersectoral negotiation. The challenge facing them now is to articulate their position on the need to transform the State.

Maya People's Movement

The domination under which the Maya people of Guatemala (60% of the population) live is evidenced by:

- the imposition of Spanish as the only official language;
- the fragmentation of the Mayan communities into different national administrative territories;
- the control of the state apparatus by the Ladino class;
- oppression in the form of political violence, economic exploitation and discrimination in general.

However, the emergence of a broad Maya people's political movement at the start of the 1990s constitutes one of the most profound manifestations of the transformation that Guatemalan society is undergoing. This movement is made up of:

1- Civic and community development committees seeking access to local power.

2- Organizations denouncing the abuses committed by the Guatemalan government against Maya populations in zones of conflict. The ideology and practice of these groups'

representatives have been marked by their contact with the revolutionary left. They place more emphasis on social justice issues than on demands relating to cultural identity.

3- Groups whose aim is to study, publicize and integrate into the power structure the elements of Maya cultural identity. Some of these groups may exhibit a tendency to underestimate the need for activism in transforming the State, or to marginalize themselves from the traditional Ladino sources of political power.

Serving as a meeting point for these three tendencies, the ASC has made it possible for them to cultivate an auspicious consensus-building approach, although some differences of opinion persist.

Women's Movement

It certainly cannot be said that there is a homogeneous women's movement in Guatemala. However, there has been a rise in a number of organized women's groups since the early 1990s. Their work tends to involve one of three types of activity:

1- Seeking ways to ameliorate living conditions. Many of these organizations owe their existence to the work of NGOs or unions. Their chief activity is the search for economic alternatives.

2- Denouncing human rights violations. This tendency born out of repression includes organizations such as CONAVIGUA and GAM.

3- Understanding and seeking solutions to gender-specific problems. These organizations began to surface in the late 1980s. In recent years, they have begun to question power structures that engender inequalities between men and women, and have succeeded in making their criticisms and proposals heard in government.

Human Rights and the Administration of Justice

These organizations base their activities more on the use of legal instruments than on political tactics. Their spheres of action are:

- human rights education;
- denouncing violations before national and international bodies;
- inspection, verification, observation of government bodies, producing reports and analyses on the human rights situation;
- use of legal mechanisms;
- humanitarian assistance to victims;
- pressure campaigns on the government, policy promotion, etc.

The generalized situation of impunity prevailing in Guatemala constitutes the major obstacle to the work of the human rights organizations. Impunity hinders the administration of justice and poses a threat to the activities of these groups.

Development NGOs

The mission of these organizations is to establish links with the population in view of carrying out organizational, social, economic or political projects.

There are two main tendencies:

1- those that emphasize economic development projects but avoid community organization and participatory education;

2- those that attempt to coordinate the project execution with activities aimed at consolidating community organization.

At a conference held in 1995, the Guatemalan NGOs identified the following objectives:

- to develop better strategic and administrative planning;
- to increase their capacity to submit proposals to international cooperation organizations;
- to redefine the mechanisms whereby they influence government policies;
- to work cooperatively in support of the post-war democratization effort.

They also stressed the urgency of going beyond an ad hoc vision to adopt a broader perspective.

The conclusion of this study reiterates the decisive nature of current events, dominated by the peace negotiations, in the reconstruction of Guatemala's social fabric. The two major immediate challenges are:

- to put an end to the impunity resulting from the predominance of the army in affairs of state;
- to develop a culture of tolerance and consensus in the relations between the State and civil society, as well as within civil society itself.

The authors conclude by putting forward recommendations following from these priorities that are intended to guide support to the organizations of civil society and the government.

ADEPAC	Asociación del Desarrollo para América Central
AEU	Asociación de Estudiantes Universitarios
ALMG	Academia de Lenguas Mayas de Guatemala
ANEEM	Asociación Nacional de Estudiantes de la Educación Media
AP5	Alianza Popular Cinco
APM	Asamblea del Pueblo Maya
ASC	Asamblea de la Sociedad Civil
ASDENA	Asociación de Salud y Desarrollo Comunitario Nuevo Amanecer
ASIES	Asociación de Investigación y Estudios Sociales
ASINDES	Asociación de Entidades de Desarrollo y de Servicio no Gubernamentales de Guatemala
AVANCSO	Asociación para el Avance de las Ciencias Sociales de Guatemala
CACIF	Comité Coordinador de Asociaciones Comerciales, Industriales y Financieras
CADISOGUA	Coordinadora de Asociaciones en Desarrollo Integral del Sur Occidente de Guatemala
CALDH	Centro para la Acción Legal en Derechos Humanos
CAMHINA	Cambio Histórico Nacional
CAN	Central Auténtica Nacional
CCPP	Comisiones Permanentes de Representantes de los Refugiados
CDRO	Cooperativa para el Desarrollo Rural de Occidente
CECMA	Centro de Estudios de la Cultura Maya
CEG	Conferencia Episcopal de Guatemala
CEMG	Consejo de Educación Maya de Guatemala
CERJ	Consejo de Comunidades Étnicas Runujel Junam
CGTC	Confederación General de Trabajadores de Guatemala
CIDECA	Consejo de Investigaciones para el Desarrollo de Centroamérica
CIDH	Comisión Interamericana de Derechos Humanos
CIEN	Centro de Investigación Económica Nacional
CIEPRODH	Centro de Investigación, Estudio y Promoción de Derechos Humanos
CIOSL	Confederación Internacional de Organizaciones de Sindicatos Libres
CNA	Consejo Nacional Agropecuaria
CNOC	Coordinadora Nacional de Organizaciones Campesinas
CNUS	Comité Nacional de Unidad Sindical
CNUT	Consejo Nacional de Unidad de Trabajadores
COCENTRA	Coordinadora Centroamericana de Trabajadores
COCIPAZ	Coordinadora Civil por la Paz
COINDE	Consejo de Instituciones de Desarrollo
COMG	Consejo de Organizaciones Mayas de Guatemala
CONADEHGUA	Coordinadora Nacional de Derechos Humanos de Guatemala
CONAGRO	Comisión Nacional Agropecuaria
CONAVIGUA	Coordinadora Nacional de Viudas de Guatemala
CONDEG	Consejo de Desplazados de Guatemala
CONFECOOP	Confederación Guatemalteca de Federaciones de Cooperativas
CONFREGUA	Conferencia Religiosa de Guatemala
CONGCOOP	Coordinación de ONG y Cooperativas para el Acompañamiento de la Población Damnificada por el Conflicto Armado
CONIC	Coordinadora Nacional Indígena y Campesina
COPAZ	Comisión de Paz
COPMAGUA	Coordinadora de Organizaciones del Pueblo Maya
COPREDEH	Comisión Presidencial de Derechos Humanos
CPR	Comunidades de Población en Resistencia

CSC	Coordinadora de Sectores Civiles
CUC	Comité de Unidad Campesina
CUSG	Confederación de Unidad Sindical de Guatemala
CVDC	Comités Voluntarios de Defensa Civil
DCG	Democracia Cristiana Guatemalteca
DIA	Desarrollo Integral Auténtico
EGP	Ejército Guatemalteco de los Pobres
FAMDEGUA	Familiares de Detenidos y Desaparecidos de Guatemala
FAR	Fuerzas Armadas Rebeldes
FDNG	Frente Democrático Nueva Guatemala
FDP	Fuerza Demócrata Popular
FENASTEG	Federación Nacional de Sindicatos de Trabajadores del Estado Guatemalteco
FENATRAM	Federación Nacional de Trabajadores Municipales
FIS	Fondo de Inversion Social
FLACSO	Facultad Latinoamericana de Ciencias Sociales
FMI	Fondo Monetario Internacional
FODIGUA	Fondo Indígena de Guatemala
FONAPAZ	Fondo Nacional para la Paz
FRG	Frente Republicano Guatemalteco
FUN	Frente de Unidad Nacional
FUNDADESE	Fundación de Desarrollo Educativo, Social y Económico
GAM	Grupo de Apoyo Mutuo
GGM	Grupo Guatemalteco de Mujeres
IDESAC	Instituto para el Desarrollo Económico y Social de America Central
IEPCG	Instituto de Estudios Penales Comparados de Guatemala
INC	Instancia Nacional de Consenso
IRIPAZ	Instituto de Relaciones Internacionales y de Investigación para la Paz
IUCM	Instancia de Unidad y Consenso Maya
MAS	Movimiento de Acción Solidaria
MD	Movimiento de los Descamisados
MINUGUA	Misión de las Naciones Unidas para la Verificación de los Derechos Humanos en Guatemala
MLN	Movimiento de Liberación Nacional
MNRM	Movimiento Nacional de Resistencia Maya
MPL	Movimiento Patriótico Libertad
ODHA	Oficina de Derechos Humanos del Arzobispado
OEA	Organización de los Estados Americanos
OIT	Organización Internacional de Trabajo
ONU	Organización de las Naciones Unidas
ONUSAL	Misión de las Naciones Unidas para la Verificación en El Salvador
ORPA	Organización del Pueblo en Armas
PAC	Patrullas de Autodefensa Civil
PAN	Partido de Avanzada Nacional
PCN	Partido de Conciliación Nacional
PDG	Partido Demócrata Guatemalteco
PDP	Partido del Pueblo
PGT	Partido Guatemalteco de los Trabajadores
PID	Partido Institucional Democrático
PNUD	Programa de las Naciones Unidas para el Desarrollo
PP	Partido Progresista
PR	Partido Revolucionario
PREG	Partido Reformador Guatemalteco

PSD	Partido Social Democrático
RUOG	Representación Unitaria de la Oposición Guatemalteca
SEGEPLAN	Secretaría General de Planificación Económica
SERJUS	Servicio de Justicia
SGP	Sistema General de Preferencias
STINDE	Sindicato de Trabajadores del Instituto Nacional de Electrificación (INDE)
UASP	Unidad de Acción Sindical y Popular
UCN	Union del Centro Nacional
UD	Unión Democrática
UNICAN	Unidad Indígena y Campesina del Norte
UNSITRAGUA	Unidad sindical de Trabajadores de Guatemala
UPMAG	Union del Pueblo Maya de Guatemala
URNG	Union Revolucionaria Nacional Guatemalteca
UTQ	Union de Trabajadores de Quetzaltenango

Introduction

The traditional logic of North-South cooperation, typified by its ad hoc, non-participatory vision, is changing. A new trend is coming to the fore in the policies of some Northern governments and non-governmental organizations (NGOs), one which views their relations with the countries of the South from a less monolithic perspective.

Currently, there is growing interest in channelling this international cooperation into creating processes tied to the construction of integral democracies: democracies that are characterized by sustainability and equal opportunity to exercise all rights, including those related to gender, minorities and the environment.

The International Centre for Human Rights and Democratic Development is a part of this new trend. It is preparing to elaborate a long-term strategy to increase the effectiveness of its promotion of human rights and democratic institutions. It is interested in obtaining a basic analysis, for thirteen priority countries of Asia, Africa and the Americas, including Guatemala, of the extent to which the rule of law is entrenched and the state is responsible for implementing an integral democracy. It also wishes to analyze the conditions and capacities of civil society to significantly affect public policy and the enhancement of such a democracy.

The purpose of this study is therefore to offer basic data on the role of the state and civil society in Guatemala in the current process of democratization. A presentation of the actions of and relationships between these actors is, above all, of value to Guatemala. Our goal is thus to contribute to the cross-sector debate around the presently emerging shared goal of a cohesive nation resting on new foundations.

In addition to describing the behavior of the private sector around the peace process, we selected five sectors of civil society which are playing a protagonistic role in the current political period. These actors are:(1) the union and popular organizations; (2) the women's organizations; (3) the Mayan organizations; (4) the human rights organizations and (5) the development NGOs. An exhaustive analysis of the power structure is beyond the scope of this study. We limit ourselves to discussing only those aspects of the social struggles and demands in which the state of human rights and the features of the current political culture are evident.

This study focuses on a conception of democracy as being expressed in the political relationships through which civil society impels the design, implementation and follow-up of government policy in the direction of integrated development. With this as the starting point, the issue of human rights loses its purely legal connotations and acquires a meaning more determined by concrete political relationships. Here, rights are seen as existing not in the abstract, but only within the framework of power relationships.

Charles Taylor defines civil society as the sum of all non-family social institutions and associations in a country which are autonomous, independent of the state and capable of significantly influencing public policy[1]. Accordingly, in this study we pay particular attention to: a) the principal structural problems that hamper attempts to strengthen civil society; b) the principal loci of interaction between the various actors making up the state and civil society) and c) the main tasks facing the popular organizations as they endeavour to play their part in weaving the social fabric.

METHODOLOGY

The research was conducted between July 1994 and November 1995. Six months of this period were spent conducting, transcribing and systematizing interviews. The study is based on an extensive bibliographic review and 57 interviews.

Chapter 1 presents an interpretation of the principal structural problems that stand in the way of full democratization of the state. Chapter 2 describes the most significant political phenomena occurring between 1993 and 1995, the former being the year in which President Jorge Serrano Elías attempted to seize dictatorial power in a so-called *autogolpe* (literally, "self-coup). Chapter 3 discusses the civil sectors listed above, their organizational processes, demands, the general impact of their action and some of their deficiencies. Chapter 4 presents conclusions on the quality of democracy in Guatemala, and on the obstacles and challenges it faces, from a perspective that entails changes not only in the government's behavior but also in the political culture of all Guatemalans.

1 Taylor, Charles. 1990. "Invoking Civil Society." Working Paper No. 31. Centre for Psychosocial Studies, University of Chicago.

From Authoritarianism to Governability

In Guatemala, there are no fluid and stable mechanisms for mediation and communication between the governing and the governed. This is because the entrenchment of a political structure based on extreme concentration of political, economic and cultural power has been ongoing for decades, or more accurately centuries.

A cohesive nation has not been constructed. Relations between individuals and institutions are based on marginalization and exclusion of the Indians through government regulation which, since the inception of the state, has favoured resource and property concentration among the Ladino elites. By the close of the 19th century, the Indians had seen their lands expropriated and had been virtually exiled onto forested land that was poorly suited to cultivation. They were subjected to systems of forced labour under penalty of fines, jail terms or torture, thus unquestionably denying them the status of legal subjects.

Guatemala's political history is characterized by authority — both the idea and its embodiment — being exercised in a violent manner. The dictatorships of Estrada Cabrera and Ubico, the counter-revolutionary invasion of 1954 and the successive military governments in control of the state since 1985 all point to the permanence of one actor — the army — holding up the weight of a socio-economic system from which the majority have been excluded.

How can a state which welcomes social participation be built out of one which, since its origins, has functioned primarily to provide, through extra-economic means, the cheap labour required by the agricultural export sector? More than the political parties and the private sector, the army has been the ideal institution to foster the big business of agricultural exports.

Under such conditions, the state acquired a rigid structure whose principal characteristics are as follows:

a) The political organization of society does not correspond to the nation's multiethnic, multilingual and multicultural nature. In Guatemala, the public authority does not act as a force responsible for governing the social contract. Rather, it is fragmented sectors of power that have dominated in a violent, non-representative and authoritarian fashion.

b) The system of political participation is not designed to represent and provide opportunities for participation by the governed. Neither does it give any priority to popular consent, the adequacy of government programs or the promotion of suffrage. The political class holds on to power through patronage and *caudillismo* (authoritarian control by powerful political bosses).

Both social organizations and citizens lack solid experience in participation through political channels since the political parties do not act to channel their demands to the government

c) Decision-making about society's future is powerfully shaped by the army's historical hegemony and the chain of patronage appointments and sinecures leading up to the presidency itself. The executive branch holds unlimited authority, thus impinging upon the independence, consolidation and decentralization of the judicial and legislative branches. There has been no trend towards institutionalizing the rule of law. The force of the law has been vitiated and legal proceedings have become pure formalities. Thus, governmental policy does not give priority to citizens' rights, nor does it define joint strategies of action among the three branches to enforce constitutional provisions.

d) Major political tensions have materialized between society and a centralized, authoritarian and exclusive state with a weakened capacity to listen to, negotiate, address and resolve social pressures and demands. The relationship between government and society has turned hostile and politically unstable. The state neither fosters nor protects community organizations nor any other kind of civic association. A discontented, but vulnerable and subordinated society — particularly since the 1954 counter-revolution, when a process of repression against popular organizations was unleashed —has ceded the public sphere to political cabals which perpetuate the system of social exclusion. Society distrusts the power structure and seeks alternative, quasi-legal methods to transform it.

Since 1954 and in the context of the Cold War, these historical characteristics have been joined by others that are related to the fact that the army exercises control over state affairs. Furthermore, until 1982, it employed counterinsurgency-style national security procedures to neutralize and/or wipe out opposition voices sympathetic to the 1944-1954 revolution or the guerrilla struggle which emerged in 1963. According to Héctor Rosada, president of the government's peace commission (COPAZ) from 1993-1995, the army institutionalized electoral fraud as part of its tactics, thus guaranteeing its continuing control of the presidency. The resulting patronage system made possible the illicit enrichment of the military elites. Corrupt management of public finances became generalized and paramilitary groups emerged to carry out acts of intimidation, repression, kidnaping, torture and extrajudicial killings. These combined made for a very efficient policy of terror.[2]

The counterinsurgency effort provoked social phenomena which accentuated authoritarianism, caused relations between citizens and the government to deteriorate, and made the prevailing governmental scheme untenable.

One of these phenomena was the atrophy of the criminal justice system. Between 1954 and 1982, there was a lapse in the creation and consolidation of institutions responsible for preventing and investigating crimes and bringing their perpetrators to justice in a timely and effective manner. Public security and criminal justice policies were under the control of the army, which tolerated no political opposition or social demands. Social activists did not enjoy due legal process. Figures seen as posing a significant threat were targeted by the army and punishment (murder, torture, forced disappearance or threats) was inflicted extrajudicially with utter impunity.[3]

2 Rosada, H. *Fuerzas armadas, sociedad y defensa nacional. Proyecto militar en Guatemala.* Report of investigation to the Consejo Latinoamericano de Ciencias Sociales, undated.

3 "A criminal justice system which dealt only with relatively unimportant street crime was a parody of justice and could hardly be considered a contribution to democracy." Philip Benjamin Heymann and James Barr Ames, law professors, Harvard University, speaking before the Subcommittee on Western Hemisphere Subcommittee of the House Foreign Affairs Committee. United States, 1990, p. 14. [Translator's note: English original not available.]

Another dynamic with major consequences was the militarization of society as a whole. The Guatemalan army attempted to undo the guerrillas' military strategy using devastating military procedures. It thereby imposed military rule on all regions affected by the internal armed conflict. It also tore apart grassroots forms of organization and community conflict resolution.[4] The effects of the strategy can be seen in acts of genocide, forced exile, rights violations, thousands of orphaned children and internal refugees. By 1982, more than 400 villages had been destroyed and one out of every eight Guatemalans (1 million people) had abandoned their communities. By 1984, at least 150,000 Guatemalans had fled to Mexico and tens of thousands of killings had left 50,000 widows and approximately 250,000 orphans.[5] Total deaths since 1970 as a result of the war and political persecution are estimated at 140,000.

The institution of a militarized system of social relations is the gravest result of the state's methods for dealing with the popular struggle and demands for social justice. In 1994, for the first time, the report of the United Nations Commission on Human Rights relayed the Guatemalan Ministry of Defence statistic that in 1993, approximately 630,000 people were employed at various levels of the military structure, broken down as follows:

- 50,000 career army officers;
- An annual average of 30,000 citizens recruited for compulsory military service;
- 8000 military commissioners;
- 500 regular and 1700 special personnel in the army-controlled Mobile Military Police;
- 730 officials in the President's security service;
- 450 agents in the Intelligence Division of the Ministry of Defence (as well as 3000 private informants);
- 537,000 members of the Patrullas de Autodefensa Civil (PAC; now the Comités Voluntarios de Defensa Civil, CVDC), civilian militias organized by the army largely through forced conscription.[6]

Since 1985, some of these trends have been corrected. What is peculiar is that these corrective mechanisms have become a paradox of the democratization process. It was the army, as the institution with maximum power in Guatemala and the one least harmed by the war, which crafted and shaped the return to constitutionality. The explanation for this phenomenon lies in the political/military logic of the period it capped. Once the insurgency had been dismembered and all social organizations that had been demanding changes in government had been weakened, the imminent danger of insurrection in Guatemala disappeared. It was only under these conditions that the army was willing to change the methods of governance and recognize, in the new state discourse, some of the national and international demands being voiced at the time: respect for human rights, promotion of social welfare, national reconciliation and peace.

4 In 1982, under the de facto government of general Efrain Rios Montt, a decree was published in the *Diario de Centroamérica* (official gazette) authorizing the army to establish a military zone in each of the country's 22 departments. The commanders of each zone exercised de facto local political authority.

5 Bastos S. and Camus M. 1993. *Quebrando el silencio*. Guatemala: FLACSO, p. 37.

6 UN Commission on Human Rights. E/CN.4/1994/10, pp. 15-18. "Military interference has also distorted the workings of the National Police and has delegated coercive and criminal investigation powers to bodies not mandated by the law. The state has no civilian intelligence agency and is thus forced to use the military section as its source for criminal investigations." Centre canadien d'études et de coopération internationales (CECI). *Democracia y Derechos Humanos*. Guatemala, June 1994, p. 20.

Although spearheaded by the army, these ongoing changes also respond to pressures from new political actors:

- The far-right political parties have become fragmented. The Democracia Cristiana Guatemalteca (DCG) is the standard-bearer of an emerging centrist discourse. New political parties emerged like the Union Nacional del Centro (UCN; 1983) and the Partido de Avanzada Nacional (PAN; 1988) to occupy the political space tolerated by the army. They have established contact with business sectors interested in effecting changes in government.
- In general, the private sector has helped bring public opinion to bear on modernizing the government, which it considers to be corrupt, inefficient and incapable of offering the political stability that is a prerequisite to investment. The conception of modernization that predominates in the private sector is that of freeing the market to the greatest extent possible from state intervention and regulation. The idea is for the government to withdraw from activities that are profitable for the private sector and provide tax exemptions and other investment incentives.
- The media and professional associations (especially lawyers) are publicly discussing the costs and damages arising from the war.
- The popular organizations are regrouping. New popular groups are emerging to denounce militarization and the human rights violations that occur in the context of armed conflict. The Mayan organizations are becoming political actors not only as a result of these denunciations, but also because their demands include respect for their identity.
- At the international level, developments which have influenced Guatemala include the actions and statements of the Contadora group (1984-86), the initiation of dialogue between El Salvadoran president José Napoleón Duarte and that country's guerrillas (1984-1987) and the need to improve Guatemala's geopolitical position with regard to low-intensity conflicts in Central America fomented by the Reagan administration's backing of the Nicaraguan counter-revolution.

Thus, since 1985, changes have been occurring which, although they have not yet profoundly transformed the power structure discussed above, lay bare the crisis of state authoritarianism and the unviability of past methods of governance and suggest tentative moves toward internal governability.

We define here governability as bidirectional relations (between the state and civil society), where the authority to govern is accepted because it offers reasonable expectations of public action and there is mediation among disparate interests. By that definition, governability in Guatemala is still vulnerable. Governing authority is not being built on actions that demonstrate unwavering respect for all rights, nor with initiatives that foster and stimulate broad democratic participation and civic influence over state behavior.

The changes have been taking place under the strict control of the army. As a result, those actors who have been given the greatest freedom of expression and are most listened to are tied to the dominant political and economic groups. As discussed at greater length in the next chapter, the territorial struggles within these elites have made progress toward democracy even slower and more complex.

Since 1985, the governing apparatus has undergone institutional and legislative transformations. A broader range of human rights are entrenched in the new Constitution promulgated in 1985. The new constitutional framework was the first to regulate, however tentatively, the rights termed "fourth-generation rights." These include special protection of natural

and cultural heritage, which is recognized in articles 57 and 85 of the Constitution; protection of the environment and ecological equilibrium, recognized in article 97;[7] and a section devoted exclusively to the rights of the country's Indian communities.

New institutions responsible for guaranteeing rights created by mandate of the new constitution are the Constitutional Court, the Office of the Human Rights Ombudsman (PDH) and the Supreme Electoral Tribunal. These three organizations played a timely and decisive role in preventing the attempted coup d'état by former president Jorge Serrano Elías in May 1993 from being consummated.

The observed behavior of two institutional systems that are key in measuring advances in governability and democratization — the justice system and the system of political participation — shows that the changes taking place so far are merely formal. They are not accompanied by the government taking initiatives and responsibility for the implementation of policies, laws, provisions and actions aimed at solving the three most serious political problems currently affecting the Guatemalan people: impunity, public insecurity and the centralization of political power.

The following analysis of the general performance of these two systems shows that their marked dysfunctionality stands in the way of building long-term political stability and initiating effective processes to promote democratization.

THE JUSTICE SYSTEM

Under Chief Justice Dr. Edmundo Vásquez Martínez, the Supreme Court initiated reforms of the criminal justice system in 1992. This had been recommended in the reports of UN experts Gros Espiell and Tomuschat, the general purpose being to support democratization of the government apparatus. That year, Congress enacted and implemented a new organic law of the Public Prosecutor's Office and sanctioned the new Criminal Procedure Code, which came into force in July 1994.

Both legislative reforms constituted a qualitative step forward for the justice system. On the one hand, they require better guarantees for the rights of the accused. On the other hand, they offer more effective and modern procedures for carrying out criminal investigations. Thus, they compel the creation of a public defender system, the implementation of public and oral proceedings, and simultaneous translations of proceedings into the defendant's language. Control of criminal investigations is transferred to the Public Prosecutor's Office and the use of martial law is restricted, although not eliminated.

As a result of the constitutional reforms resulting from the January 1994 referendum, a new system came into effect for appointing judges to the Supreme Court and Court of Appeals. Every five years, Congress must elect judges from a slate of candidates selected by authorities of recognized credibility. Most recently, in the latter half of 1995, Congress enacted two laws designed to improve the human rights situation. The first, Decree 60-95, contains the Act to Reduce the Risk to Inhabitants of the Areas Affected by the Armed Conflict by Sweeping and Deactivating Mines and Other Explosive Devices. The second, Decree 17-73, classifies torture as a crime under the Criminal Code.

7 Myrna Mack Foundation. *Sistema Legal y Derechos Humanos*, p. 14, June 25-26, 1993.

The implementation of these decrees has led to a critical process of adapting the judicial institutions. The judiciary, the Public Prosecutor's Office, the PDH and the correctional system lack a strategy that defines integrated policies designed to make effective the changes required by the law. These institutions do not coordinate their activities. They must confront the inertia and lack of will on the part of officials who, over the years, have assimilated a judicial culture based on corruption and the subordination of the law to the interests of political and military elites.[8]

One of the chief problems with the effective exercise of justice is thus the absence of an independent judiciary. The Myrna Mack Foundation states that "nearly throughout its history, the judiciary has been vitiated by plunder, corruption, political prostitution, arbitrariness and manipulation, servility towards the dominant sectors, interference by the security forces; in short, an abiding lack of independence."[9]

The United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA) has detected the following factors affecting the independence of judges: (1) the vertical structure of the judiciary, which gives the Supreme Court absolute control over the selection, appointment, discipline and recall of judges and encourages the use of pressure to effect jurisdictional decisions; (2) the administrative vigilance of the Court Supervisory Board with procedures likely to influence jurisdictional decisions; (3) threats and intimidation from powerful official or private groups; (4) lack of material and human resources, forcing judges to act primarily in an administrative capacity.[10] MINUGUA estimates that 150,000 criminal cases were pending resolution in 1995, indicating the insufficient institutional capacity to meet the demand for justice.[11]

The independence of the Public Prosecutor's Office is even more gravely compromised, since its institutional framework is deficient in every respect. As from the entry into force of its new organic law and the Criminal Procedure Code, this agency is responsible for bringing charges and conducting criminal investigations. It, too, lacks the human and material resources and basic physical infrastructure with which to fulfil its new functions. According to MINUGUA, its staff includes only 109 prosecutors (who represent the Office at trial) for the entire nation, of which 69 are based in the department of Guatemala.[12] Its limited budget explains the virtual absence of the Public Prosecutor's Office from rural areas, as a result of which "inappropriate institutions and actors assume the roles of public prosecutor, judge and police".[13] This anomaly is aggravated by the absence of intensive training programs to address the prevailing ignorance of techniques for conducting criminal investigations; this despite many officials' interest in adapting to these changes. Only thus can one explain that of the 14,000 cases received from July 1994 onward, only 180 were processed in 1995.[14]

For the Myrna Mack Foundation, creating an accredited public prosecutor profession will provide more transparent selection and appointment of officials to that agency. This is even truer given that the problems described above feed off a political situation in which "this institution's investigators maintain their dependency on the army and police forces, effectively ruling out any serious, in-depth, independent investigation."[15]

8 Myrna Mack Foundation. Newspaper insert, "Y el poder de los votos?" Guatemala, October 15, 1995, 12 p.

9 Ibid., p. 7.

10 MINUGUA. *Estrategia de cooperación y apoyo a las instancias nacionales de protección de los derechos humanos.* June 1995, pp. 6-7.

11 Ibid., p. 7.

12 Ibid., p. 8.

13 Ibid.

14 Myrna Mack Foundation, p. 8.

15 Ibid.

The National Police, which should be responsible for guaranteeing public safety through crime prevention and investigation, is far from being supported by the legislation, structure, relations, techniques, budget, operations and plan of action necessitated by its legal obligations. According to MINUGUA, in November 1994, the total staff of the National Police amounted to 11,800 officers. However, of that number, only 30% had been trained at the Police Academy, and only 2500 per day were detached to carry out crime prevention and investigation functions.[16] MINUGUA maintains that the ratio of police officers to citizens in Guatemala is 1 to 2200, far below the international standard of 1 to 500.[17]

There is a virtual consensus among human rights organizations and experts that the current status of the National Police is inadequate to combat crime with methods based on human rights. The existence of an institutional vacuum nurtures illegal associations between police officers and the army in combating delinquency, while the militarization of this institution prevents the public prosecutors from exercising civilian authority.[18]

Of the two institutions which should establish close ties with the public, the PDH, whose role is to investigate complaints and point out human rights violations, and the Public Defender's Office, which provides free legal defence, lack inter-institutional coordination and the resources needed to increase their effectiveness. As of July 1995, there were only nine public defenders in the capital and 17 for an equal number of departments.[19]

The generalized dysfunctionality of the public institutions responsible for enforcing human rights measures is a direct cause of public insecurity and impunity. In its third verification report, MINUGUA termed the situation "a crisis in the administration of the justice system" and warned that its effects disadvantaged primarily the Indian population.

Throughout its reports, MINUGUA has consistently reiterated and broadened its observations on impunity. Besides the poor condition of the judicial bodies, it considers the following activities of the security forces to be causes of impunity:

- The existence of illicit groups linked to delinquency and economic or other interests and which may be supported, protected or tolerated by government officials.
- The existence of groups with which army and police officers collude in order to carry out "cleansing operations," thus facilitating and concealing crimes and supplanting the justice system.
- The existence of evidence tying these groups to drug trafficking, car theft and lumber contraband activities.
- The existence of a climate of intimidation and threats stemming from the actions of these groups, affecting judges, public prosecutors, lawyers and witnesses.
- The protection granted by the army to those of its officers implicated in cases of corruption and common or political offenses.
- The discourse and mentality of the armed forces, which affects the freedom of the human rights NGOs.

16 Ibid., p. 9.

17 United Nations. A/50/482. *Third Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala*, October 12, 1995, p. 20.

18 Forum on the role of the police in the peace process organized by the Myrna Mack Foundation, November 13-14, 1995.

19 Ibid., p. 7.

- The persistence of privileges for military officers who commit common crimes and yet are not tried in civilian courts.
- The persistence of abuse (primarily pressure and harassment) by the CVDCs.
- The absence of government responsibility for controlling the proliferation of firearms among private citizens.

Finally, in its most recent report; MINUGUA stated that the power of these illegal groups "is greater than the power of the institutions responsible for combating them." All the human rights organizations agree that the main reason why this system of impunity is maintained is the lack of will and commitment to break the vicious cycle as demonstrated by the actions and omissions of the government and its agents. In particular, the corrective measures recommended by MINUGUA have been completely ignored. These include a complete and in-depth reform of the National Police and its officer selection and training criteria; instituting a comprehensive policy to combat impunity; reforming the Criminal Code and the organic law of the judiciary; creating a regulated legal profession, increasing the budget for the justice system, reforming the current military justice system, and so on.

Monitoring the behavior of the judicial institutions is primarily the work of MINUGUA, the international community and various human rights NGOs. The international community has played a decisive role in pressuring the government to hold criminal trials for military officers implicated in criminal acts and human rights violations. It has demanded a real commitment to respect human rights, as in the case of the decision by the donors meeting held in Paris under the auspices of the World Bank in June 1995. At that forum, economic aid for the post-war period was conditioned on the government demonstrating greater responsibility in protecting rights.

The expected end of the armed conflict in 1996 will be decisive in shoring up the transformations of the justice system. First and foremost, it will create the pre-conditions necessary for a transformation of the army and other security forces. This change will be directly linked to the demilitarization of society and the broadening of civic participation. Conversely, if the changes in the army are not aimed at diminishing its privileges and its interference in government policy, it will be impossible to guarantee the continued existence of ideal judicial institutions.

The 1996 national budget contains no qualitative increase in allocations to this item. Furthermore, consensus and advocacy regarding the problem of military power interfering in the administration of justice are still tenuous. National actors (politicians, the popular movement, human rights organizations, segments of the private sector and the army that are committed to probity and national reconciliation) must apply greater pressure and coordinate their activities to bring the security forces under the rule of law, to provide oversight and condemn corruption and impunity on the part of judicial officials, and to call for the government elected in January 1986 to make an effective commitment to the principles of legality and responsibility.

PUBLIC POLITICAL PARTICIPATION

With the so-called "return to constitutionality" in 1985, the substitution of civilian for military government was accompanied by, the imposition of an economic model based on structural adjustment and the liberalization of markets. These were changes worked out among the elites, which led to a consensus to give the private sector a greater share of power without altering the army's hegemony and without transforming the conditions which, for decades, have prevented the majority from exercising their economic and political rights.

The processes of civic reorganization were more a result of pressures arising from grinding poverty (see figure) and a political reaction against the terror tactics of the past than of government policies designed to reconstruct the social fabric and establish communication and mediation between the state and society.

SOCIAL INDICATORS, 1980 AND 1990

	1980	1990
Poverty (%)	65	75
Rural area	79	86
Urban area	41	57
Extreme poverty (%)	33	58
Rural area	44	72
Urban area	13	34
Illiteracy among people over age 15 (%)	NA	53
Rural area	NA	70
Indian women	NA	76
Access to water	NA	64
Infant mortality (per thousand live births)	82	54
Maternal mortality (per 100,000)	NA	248
Infant malnutrition (% underweight)	NA	50
Mortality due to diarrhea (per thousand)	60	30
Average real wage (% decline)	45	NA

NA = no data available

Source: SEGEPLAN

To date, no arrangements have been made to accommodate civic participation in designing and implementing the social contracts that aim to carry out redistributive policies and actions which, on the one hand, are an attempt to decrease the high rates of poverty and, on the other, empower the population to become involved at least minimally in local economic and political decisions or to influence the components of macroeconomic policies.

Resistance to achieving cross-sector economic consensus has characterized the new period. The demands of the union movement and the development NGOs, particularly their opposition to privatization, have not been incorporated into an agenda for dialogue.[20] Neither has consideration been given to social pressures from peasant organizations to address the main causes of rural poverty: concentration of landownership, lack of legislation and efficient institutions to resolve landownership and tenancy disputes, lack of technical support and credit for small- and medium-

20 In 1993, the Ministry of Agriculture brought together various development NGOs to jointly define a strategy of action for the agricultural sector. A document analyzing of priorities was prepared but this process did not translate into political action.

sized producers and the lack of rural job-creation policies.[21] The essentials of the structural adjustment were negotiated exclusively between international finance agencies and the Comité Coordinador de Asociaciones Comerciales, Industriales y Financieros (CACIF), the principal representative of the organized private sector.[22]

The only measure taken so far that is likely to have a long-term positive effect on relations between government and the citizenry is the policy of decentralization of government and municipal strengthening.[23] As a result of the January 1994 referendum, the budget allocation to municipalities was raised from 8 to 10% in order to expand local financial management. This percentage was derived from the single property tax.[24] The government makes its transfer payment conditional on demonstrated administrative and financial capacity by the municipalities. In consequence, the weakest municipalities never receive the assistance or experience delays in receiving it. To offset this problem, the government uses only a US$398,000 World Bank donation aimed at providing training in administration and project development for municipalities and qualifying them to carry out land registration.[25] However, this donation is adequate to train and equip only 5 of the nation's 330 municipalities.

Simultaneously, with World Bank funding, the government has been carrying out a financial integration and administration program by implementing pilot projects in the departments of Chiquimula, Alta Verapaz and Escuintla. The goal is to create decentralized budgeting, treasury, accounting and control systems for health and education so as to provide resources to the municipal governments.

These advances have not gone hand in hand with reforms of the legislation governing civic political participation. Nor have measures been applied to promote demilitarization and to prevent the army from implementing, as it purports to do, education, health, infrastructure and ecology programs and projects which should fall within the purview of civilian institutions.

As we shall see, only the peace process opens the possibility for a restructuring of the currently restrictive mechanisms in order to allow citizens the full exercise of their rights. For example, in compliance with the Agreement on Indigenous Rights and Identity, the Municipal Code should be revised to guarantee Indian representation at the local and regional levels and to recognize the right of Indian communities to manage their internal affairs in accordance with their customary law. In redefining this code, it will probably be necessary to take into account the studies and proposals made by research centres; some of these have observed that by virtue of their make-up, the municipal councils are not only incapable of including the sectors with the most pressing needs, but also lacking in regulations that would control or oversee their administrative activities. Such

21 The Coordinadora Nacional Indígena Campesina (CONIC) is an Indian peasant organization which, in 1994 and 1995, led struggles to improve the situation of peasants working on estates and solve land scarcity and ownership problems. Their methods included peaceful occupation of farms, paid advertisements and proposals that the government reorganize the current cadastral system.

22 Key elements of the structural adjustment include raising the price of public services to reflect their real cost; cutting and better targeting subsidies; total or partial privatization of publicly owned corporations; imposing wage austerity measures; reducing the fiscal deficit; tax and financial incentives to private investment; eliminating tariff barriers, etc. In response to the fiscal reform measures demanded by the IMF during 1994 and 1995, tax reforms were instituted which provoked across-the-board rejection from the private sector and forced the De León Carpio government to give in to these pressures.

23 Attempts to operationalize the regional and departmental Consejos de Desarrollo, multi-sector advisory bodies on the implementation of government policy, have been ongoing since the mid-1980s. However, this institution has caused political controversy among the popular sectors, which consider it another army-controlled mechanism for subduing the population. Also, these bodies lack legitimacy and rallying strength at the local level. They lack development plans and policies and have become bureaucratic entities composed mainly of department-level authorities.

24 The Guatemalan property tax rate is one of Latin America's lowest. The agricultural export sector, which is collectively the country's largest landowner, has consistently opposed any attempt to raise this tax.

25 Interview with Mayra Palencia, deputy director of the External Financing Division of the Ministry of Finance.

studies have also noted that participants in town meetings (*cabildos abiertos*), which are governed by section 48 of the Code, have a voice but no vote.[26]

Similarly, as a result of the negotiations between the government and the Unidad Revolucionaria Nacional Guatemalteca (URNG), the armed leftist guerrilla opposition, it will be necessary to revise the Elections and Political Parties Law. Besides the counterinsurgency policies with their attendant physical destruction and deterioration of community organization, the political party system has been one of the impediments to increasing civic influence over state conduct. From 1954 onward, political parties have not been formed to act as intermediaries between the state and society. They are not structured to generate and channel social demands, nor have they cultivated a tradition of generating public opinion.

According to the social science research association ASIES, the Elections and Political Parties Law really only governs elections, since it does not govern the role of parties as permanent representatives of the population. This contrasts with the previous legislation, which did stipulate responsibilities such as "holding debates on matters of national interest and acting as a permanent channel of communication between the citizenry and the state."[27]

Neither are there standards governing the representation of ethnic groups in parties' member rolls or candidate lists. Internally, parties do not function democratically. The combined membership in Guatemalan political parties is no more than 6% of the population. Party leaders lack credibility because they do not reach their positions as a result of a broad consensus. Their behavior has been publicly linked to political patronage and acts of corruption.

At the 10th Seminar on the Role of Political Parties, organized by ASIES and held in September 1994, there was recognition that the generalized abstention and disdain for politics among the population can be explained by a lack of alternatives for controlling social processes by this means. Local "civic committees" (*comités cívicos*), however, are currently becoming a new means of achieving local management. Growing participation in these organizations stems from the conviction that they provide direct control over municipalities, making possible decisions closely related to the socio-economic problems affecting the community.[28] In the 1995 elections there was a significant increase in registered civic committees (100 in 1990 to 160 in 1995). Many of them were characterized by promoting Indian and women's participation. IRIPAZ, a peace research institute, estimates that women accounted for 25% of membership in civic committees during the period 1991-93.[29]

The crisis of the political party system finds its clearest embodiment in Congress. This body has distanced itself from the democratizing institutional changes that have taken place to date. The failed *autogolpe* by ex-President Jorge Serrano Elías revealed that congressional activity, traditionally no more than partisan squabbling and electioneering, lacks strategies for dealing with high-priority national issues, such as rendering the peace accords viable, institutional and democratic strengthening, modernizing and decentralizing the state and planning development.[30]

Congress' dysfunction is also directly related to a partisan tradition of not basing its activities on programs and strategies for nation-building. The politically isolated legislators tend to act in an ad hoc fashion, often operating through illicit negotiations.

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26 Ochoa García, Carlos et al. 1993. *Los contextos actuales del poder local*. Guatemala: IRIPAZ/FRIEDERICH EBERT STIFTUNG. 154 pp.

27 ASIES. *IX Seminario sobre el rol de los partidos políticos*. Guatemala, September 1993, pp. 174.

28 Ochoa García, Carlos. et al least. 1995. *Los comités cívicos/Gestión local de la acción política*. Guatemala: IRIPAZ/OAS/FRIEDERICH EBERT STIFTUNG. 128 pp.

29 Ibid., pp. 114-15.

30 ASIES. *X Seminario sobre el rol de los partidos políticos*. Guatemala, September 1994, pp. 175.

In Guatemala, there are no politically established legal mechanisms for overseeing the behavior of parties and the Congress. As a result, the prevailing attitude among the population tends to be distrust and indifference. In a joint ASIES/USAID study on democratic culture, it is noted that compared with other Central Americans, Guatemalans show only moderate support for their system of governance and "weak support for the right to participate as well as the right to dissent." This analysis also reported that support for democratic freedoms tends to be greater among the Indian population than the Ladino population. It was also observed that education was the most important variable determining the value placed by individuals on democratic freedoms.[31]

Guatemalans lack information, education and access to sources that could provide them with a notion of their role as citizens in a society moving towards democratization. As a people, their democratic values have been worn down by the prevailing counterinsurgency and radical confrontation of the preceding decades. They believe neither in the state nor in its institutions and, as a result, they have lost interest in participating in them, using them or changing them. The logic of economic subsistence and public insecurity has also created a generalized attitude of living from day to day and ignoring the generations to come. Authoritarian behavior continues to be perpetuated, as reflected in school curricula, the media, minimal government attention to citizens and the relationships among non-governmental sectors. The consequence is a neutralization of the practical sense of the idea and exercise of human rights and fundamental freedoms.

As stated, these still deeply rooted cultural features have been dwindling since 1985, a process which gathered momentum with the start of the peace process. At present, there is no question of the existence of social movements that aim to create new ways of governing and coexisting in society. These movements are arising out of various sectors: Indian, women, NGOs, popular organizations, business, media, politicians, the army and international agencies. The most promising results of this process have been, on the one hand, increasingly vociferous public opinion — that is, the right to speak and civic self-esteem — in opposition to impunity; and, on the other, growing interest in strengthening community management; in creating new channels for citizens to have an influence on decisions at the community and national levels, and in eradicating the causes and manifestations of militarization.

But while these favourable changes are taking the form of a process, it should be noted that the principal challenge is for them to advance without being blocked, the major political obstacle being the lack of government strategies and programs that are coherent with this new societal ferment. Integrated strategies have yet to be implemented to combat impunity, corruption and public insecurity as well as to educate public servants in professional and democratic techniques. These lacunae constrain democracy and result in low-intensity citizenship.[32] There is also little will to apply policies designed to reduce privileges and the concentration of political and economic power — the main reasons why the grave problems relating to extreme poverty, ethnic exclusion and low levels of political participation persist. Therefore, as long as the causes of these problems are not addressed, it will be impossible to establish the long-term stability necessary for democratic governance and for creating and sustaining new interests that allow for and foster non-violent interpersonal relationships.

31 ASIES. *La cultura democrática de los guatemaltecos*. Guatemala, January 1995, p. 132.

32 The concept of "low-intensity citizenship" and the crisis of the Latin American state is discussed by the political scientist Guillermo O'Donnell in "Estado, Democratización y Ciudadanía," Nueva Sociedad, No. 128, November- December 1993, pp. 62-101. He writes: "States that are incapable of asserting their legality sustain a democracy of low-intensity citizenship... A situation in which one can vote freely and trust that one's vote will be properly counted, but in which one cannot expect fair treatment from the police or the justice system, throws serious doubt on the liberal aspect of that democracy and gravely curtails citizenship."

The Guatemalan Socio-Political Context: 1993-1995

The crisis in Guatemalan government brought to a head by the May 1993 *autogolpe* pointed up the political fragility of the constitutional program initiated in 1985. But it simultaneously unleashed a new set of processes leading to changes in the country's politics.

One of the most significant changes was the appearance of active, though not homogeneous, public support for a system of monitoring the legal accountability of government institutions. For the first time in decades, a consensus had formed among various social sectors (business, media, popular organizations, professional associations, universities, etc.) to counter the *autogolpe* and its attendant effects. The media's role in articulating the general discontent cultivated the expression of additional opposition to this illegal act. This public response gave rise to an abiding discourse which continues to this day demanding that institutional ethics be based on honesty and legality. In one of the most optimistic versions of the situation, the weekly *Crónica* dubbed these changes a "democratic revolution," since civic participation was decisive not only in preventing a break with constitutional order but also in bringing about minimal transformations in government agencies and giving a voice to critics of the security forces. Such developments would have been unimaginable even a few years earlier.

The failed *autogolpe* caused a reconfiguration of power in the country and resulted in two forms of civic action. The first was the struggle to purge the judicial and legislative bodies through the establishment of the Foro Multisectorial and the Instancia Nacional de Consenso (INC). The second was the founding of the Asamblea de la Sociedad Civil (ASC), which was born out of renewed UN-sponsored peace negotiations as an umbrella forum intended to encourage debate and consensus-building among all sectors of civil society. Political conditions and culture were adverse to the long-term sustainability of the ad hoc cross-sector consensus characteristic of the first approach. Although the second form of civic action is moving forward slowly because of the deferment of the signing of the peace accords, it has provided new lobbying and advocacy experiences which could be seized upon to strengthen the participation of civil society in the post-war period

This chapter summarizes the overall dynamics of the relations between government and civil society over the last two years, particularly around the peace process and the electoral processes. It attempts to provide a reference that is more descriptive than analytical as a means of stimulating reflection on the challenges facing the various groups considered in this study.

THE AUTOGOLPE

The *autogolpe* of May 25, 1993 resulted from a crisis of governability in the political process that had been led by the military government since the March 1992 coup. The army's idea in instituting democratic reforms was, as one prominent journalist wrote, "to provide an effective political instrument for defeating the guerrillas and relieving the army of the burden of wielding power and running the government." [33] The "relief" never involved substantial structural political reform and, ultimately, the *autogolpe* demonstrated that the fragility of the power alliances had resulted in a vulnerable, poorly integrated system of government.

Carried through by then President Jorge Serrano Elías with the support of the army (especially one segment thereof), the *autogolpe* was an attempt to dissolve Congress and the Supreme Court, abolish various civil rights enshrined in the Constitution and call new Congressional elections. The crisis lasted ten days, after which former Human Rights Ombudsman Ramiro De León Carpio took over the presidency.

Shortly after the crisis, Héctor Rosada — who would soon be named to head the government's peace commission — announced that the political transition begun in 1982 had expired, as it had lacked "structural, long-term objectives and politicians able to guide it towards a mature democracy." For Rosada, the absence of mediating mechanisms between government and civil society had resulted in the uncontrolled proliferation of poverty, insecurity, violence and confrontation.[34]

Various analysts have noted two main factors leading to Serrano's decision to resort to a measure as drastic as an *autogolpe*.[35] The first was the break-up in April of the three-way alliance among the centrist UCN, the DCG and his own party, Movimiento de Acción Solidaria (MAS), meant that it would be unlikely that Serrano could continue to exert any degree of control over the legislative branch. Second, the corruption of Serrano's administration had been severely criticized, and legal proceedings (similar to those that had just occurred in Venezuela) against the President himself were expected.

The common thread in the reactions of the various sectors opposing the *autogolpe* (political parties, private sector, popular and union groups) was the demand for a purge of government institutions, i.e., a renewal of the country's political class. Although this shared concern spurred the formation of a common front to prevent a rollback of democratization, emphasis was placed on replacing officials, while pressure to restructure institutions was kept at a low profile.

This agreement in principle among the sectors was put into practice through a cross-sector body known as the Instancia Nacional de Consenso (INC) — created on May 30 through the initiative of various elite members of the political class and the private sector — until differences in political vision and entrenched ideological radicalism evidenced the futility of attempts to encompass the concerns and proposals of all sectors opposing the *autogolpe*.

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33 Gustavo Berganza, "Un Carrusel en Decadencia," *Crónica*, April 15, 1994, p. 27.

34 Hector Rosada-Granados, *Algunos Elementos para el Manejo de la Actual Transición Política en Guatemala*, June 8, 1993, manuscript.

35 Among essays dealing with the autogolpe are "Al rescate de la Democracia en Guatemala," by Josef Thesing, Director of International Cooperation, Konrad Adenauer Foundation, published in *La Crisis Político-Constitucional de Guatemala*, Instituto Centroamericano de Estudios Políticos (INCEP), a special issue of *Panorama Centroamericano*, Temas y Documentos de Debate No. 3/93, Guatemala, May-June 1993; René Poitevin, *Guatemala: La Crisis de la Democracia: Dudas y Esperanzas en los Golpes de Estado de 1993*, Debate No. 21, FLACSO, 1993; Mario Solórzano, *Guatemala: Una Propuesta de Gobernabilidad para la Transición Democrática*, Cuaderno de Discusión No. 9, FLACSO, 1993; and Gabriel Aguilera Peralta, "La Democracia y la Cuadratura del Círculo: La Crisis Política en Guatemala," *Polémica*, No. 1, third season, January-June 1994. For an analysis from the viewpoint of the popular movement, see *Por el Consenso Hacia La Construcción de la Nueva Nación Democrática*. Comisión Universitaria Para la Paz (COMPAZ/AEU, USAC), Nueva Nación Series, #2, August 1993, Guatemala.

In the end, the popular and union movement was the one excluded from negotiations regarding a return to the rule of law. It was alone in explicitly demanding that the army and its high command be kept at a distance from the discussions and consultations between the sectors of civil society and the government[36].As an alternative, this sector convened and established the Foro Multisectorial with the participation of numerous popular organizations, and organized protests and demonstrations in the streets in open defiance of the *de facto* government's suspension of freedom of association. Months later, its leaders directed the occupation of Congress, catalyzed anti-military sentiments and circulated a petition calling for the resignation of all members of Congress.

For their part, the political elites and the private sector, aware of their rallying and negotiating power, brought together the INC and entered into negotiations with the army without including the popular sector. CACIF's militancy was underpinned less by long-term concerns over democratization than by the "signs of imminent asphyxiation and international isolation" — both economic and political — that would be applied to Guatemala.[37]

At its inception, the INC was made up of leaders of the DCG, the UCN and Consejo Nacional de Unidad de Trabajadores (CNUT), as well as the Rector of the University of San Carlos (USAC) and business representatives (CACIF). The following day, the Guatemala Confederación Guatemalteca de Federaciones de Cooperativas (CONFECOOP), as well as the PAN and the Frente Republicano de Guatemala (FRG), the main right-wing parties, joined this forum.[38] It became fully representative when members of the Foro Multisectorial and, with great difficulty, the Mayan people, were incorporated into it.

The INC played a decisive role not only in opposing former Vice-President Gustavo Espina's assumption of power but also in conveying a timely proposal to the speaker of Congress with the names of three presidential candidates: Ramiro de León Carpio (proposed by the union and popular sectors), Arturo Herbruger Asturias (proposed by the DCG) and Mario Quiñónez Amézquita (proposed by CACIF). De León Carpio and Herbruger were elected president and vice-president, respectively, on June 6.

The three government institutions which played outstanding roles during this crisis were the PDH (whose chief was elected President), the Supreme Electoral Tribunal (which refused to call new elections) and the Constitutional Court (which rendered decisions to resolve the crisis).[39] The behavior of these three bodies buoyed international hopes for getting the democratization process on track. In addition, the army's cautious behavior —more sensitive than ever to public opinion (or, at least, to the opinion of national and international elites) — was another cause for some optimism about the future.

Following the election of the new president, there was a wave of public support for a complete purge of the judiciary and Congress in reaction to the backroom dealmaking being done by the political parties. It was at this point that the INC failed to achieve consensus and, thus, to survive. The sectors closest to the traditional political class opted for a selective purge, while the popular sectors chose to maintain their demand for the across-the-board resignation of Congress and the Supreme Court.

36 "Propuesta del Foro Multisectorial Social," Guatemala, June 4 1993. In: *La Crisis Político-Constitucional de Guatemala*, pp. 227-229.

37 "Declaración del Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras," Guatemala, May 31, 1993. In: *La Crisis Político-Constitucional de Guatemala*, p. 129.

38 The forerunners of these initiatives were, for the popular movement, the national dialogue of 1988, and, for the political sector (see Solórzano), the social pact and the Serrano era.

39 Solórzano.

THE PURGE AND THE REFERENDUM

Precisely because it generated a current of opinion that questioned the privileges of many politicians and other powerful groups in the management of public affairs, the period following the election of President de León Carpio was marked by intense struggles among elites with an exclusive focus on their power interests.

In his earnest desire to maintain popular support, the new president reiterated, on August 26, his demand for the resignation of all members of Congress and of the Supreme Court, and called for a public referendum to support his position. He thereby entered into direct confrontation with the majority in Congress, which favoured the resignation of only sixteen members.[40]

However, De León Carpio lost no time in distancing himself from his original populism as he began to feel pressure from both the army and business leaders to narrow the focus of the conflict to one of reorganizing the distribution of power. As a result, he vitiated his dialogue with the popular sectors by working out the constitutional reform package to be included in the referendum without consulting them. The Congress and the private sector prepared their own "reform packages," making dialogue necessary between Congress and the executive branch with the mediation of the Guatemalan Catholic Bishops' Conference (CEG). The groups in power finally reached an agreement on November 15, and the referendum was scheduled for late January 1994.

These actions were interpreted as shady political deals and, in many social sectors, frustrated expectations for a restructuring of the political party system. The influential weekly *Crónica* — which, to some extent, represents one sector of businesspeople, and which was one of the most euphoric in denouncing the *autogolpe* — editorialized in mid-October on "the end of the revolutionary illusion." The editors wrote:

> President De León Carpio has been unable to push through a true renewal of the democratic system and the political class has shown itself to be more headstrong than expected... These eight years of democratic experimentation have rendered practically invincible those who make up the local political tribe.[41]

Several months later (in April 1994), ASIES commented that "Guatemalans are far from being able to say that they have overcome the crisis in government and have gotten the democratic process back on the right track."[42]

The URNG called the referendum "one more joke at the expense of the Guatemalan people."[43] Meanwhile the popular sectors, in a statement co-authored by various groups, wrote:

> The referendum, in the form put forward and given the maneuver they represent, delegitimize a mechanism of societal participation and vitiate its democratic content, when political demagoguery would have it that the simple fact of a "yes" victory would resolve the political crisis that is upon us, which is completely false.[44]

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40 The DC and the PAN called for the resignation of all members. The difference between these parties resided in that most of the DC deputies were among the 16 slated to be purged, while the PAN was "cleaner" and gave itself additional credibility by temporarily withdrawing from Congress. The so-called Gran Grupo Parlamentario (UCN, PRG, MAS, etc.) was in favor of a selective purge. See *Panorama Centroamericano: Reporte Político and Informpress Centroamericana.*

41 Crónica, October 15, 1993, p. 7.

42 ASIES, *Análisis: Del 1_ de Enero al 25 de Marzo de 1994*, p.4.

43 Political statement by the URNG high command, "La Componenda Consumada, una Burla Más al Pueblo," Guatemala, December 2, 1993.

44 *Planteamiento de Coordinadora de Sectores Civiles (CSC), Coordinadora Civil por la Paz (COCIPAZ), Unidad de Acción Sindical y Popular (UASP), Foro Multisectorial Social (FMS), Instancia de Unidad y Consenso Maya (IUCM)*, discussion document, undated.

After a major publicity campaign funded by both the government and the private sector, the referendum was held on January 30. The "Yes" side won with an unprecedented 84% rate of abstention. Of approximately 3.4 million registered voters, only 370,000 voted "Yes," 71,000 voted "No," and some 97,000 spoiled their ballots.

The position of the popular groups on the referendum was somewhat heterogeneous. Most members of UASP, the most important umbrella group of the union and popular movement (whose member organizations include the Asociación de Estudiantes Universitarios (AEU), a university students' association; Unidad Sindical de Trabajadores de Guatemala (UNSITRAGUA), an independent trade union confederation; Grupo de Apoyo Mutuo (GAM), an organization of wives and mothers of the disappeared, and Coordinadora Nacional de Viudas de Guatemala (CONAVIGUA), an organization of highlands widows) called for abstention, while the CGTC, the UASP-aligned public-sector union Federación Nacional de Trabajadores del Estado (FENASTEG), Federación Sindical Obrero Campesina (FESOC) and the USAC leaned towards the "No" vote. The day after the referendum, the popular sectors met to analyze the event, concluded that it had been illegitimate and called for President De León Carpio's immediate resignation.

Various interpretations of the significance of the high rate of abstention were put forward. According to the popular movement :

> "The abstention was palpable evidence of politicization, the maturity of civic consciousness and a conscious rejection of the positions which the people of Guatemala are currently debating. It also reflects the exhaustion of an exclusive political system that cries out for the country's democratic process to be set back on course".[45]

Without negating the remarks of the popular groups, other analysts pointed to a multiplicity of other causes: that the people had not understood the nature of the referendum, that there had been no local or national candidates that would entice them to vote, that the political parties had not mobilized their support.[46] Another factor noted on February 6 in the daily *Siglo Veintiuno* was the supposed decision by the army not to mobilize the PACs in favour of the "Yes" option.[47]

In any event, it is apparent that the process used to resolve this crisis showed the inability of the new president, but also that of the government, to articulate and maintain cross-sector consensus. The stance of those in power fueled the popular movement's radical anti-government tradition but at the same time put into relief the weakness of its advocacy function.

In sum, then, the referendum was no more than a tensely negotiated pact among the executive, the army, the political class and business to redistribute power in the form of a superficial government restructuring carried out by the elites. Although this pact was essentially a response to the dictates of the moment, it did release the tension so that the peace process could continue and basic changes could be made to various public institutions. Along with the nod given by Guatemalans to the election of a new Congress, a series of constitutional reforms were approved. These included diminishing the executive's power over the legislative branch; creating mechanisms for the selection of judges that are more immune to political patronage; establishing new functions for the Public Prosecutor's Office, which assumed responsibility for criminal investigations;

45 Final Report, Alternative referendum, Guatemala, July 1994, p. 5.

46 "Consulta Popular: el presidente se va quedando solo," *Inforpress Centroamericano*, February 10, 1994, p. 8.

47 General Quilo Ayuso, then army chief of staff, also made this accusation on the day he retired, but the armed forces as an institution denied this version. See "Declaración del Ejército de Guatemala ante la opinión pública nacional e internacional," Guatemala, February 27, 1994. In: *Panorama Centroamericano/Reporte Político*, No. 91, March 1994, p. 16. See also interview with Quilo Ayuso in *Crónica*, March 4, 1994, pp. 20-21.

increasing the share of the national budget allocated to municipalities from 8 to 10%; and repealing article 133 of the Constitution which authorized the Banco de Guatemala to extend credit and financial backing to the government. As a result of this last change, these functions were transferred to the private banking sector, thus fulfilling the macroeconomic requirements of structural adjustment.

The government did not conduct any information or education campaigns on the referendum questions. The lack of publicity for the reform package was considered an abhorrent manipulation of what is supposed to be a democratic procedure. De León Carpio quickly lost all authority in the people's eyes and weakened his capacity to dialogue with the popular organizations. For this reason, his subsequent call for a broad national consensus to negotiate socio-economic agreements with the participation of government, the workers and the private sector ended in failure. This proposal was left in the air: neither the private sector nor the popular sectors heeded the call. According to one UASP leader, the government wanted to "create a forum for 'dialogue' in which the workers would demobilize, postpone their immediate demands and get involved in fruitless discussions that in any case would not solve their problems".[48]

The sector that benefited most from the political class' disgrace was business, which is closely linked to the FRG and the PAN, the main right-wing political parties. These two parties won the most seats in the elections called for August 1994 by the referendum — an election in which voter turnout was equally low (20%). The election results created a new balance of power in favour of the FRG (with 32 of 80 members) and the PAN (with 24), displacing the traditional parties that had dominated the transition of the 1980s (DCG, UCN and the Movimiento de Liberación Nacional (MLN)).

OVERVIEW OF THE PEACE PROCESS AND THE UN ROLE

The Framework Agreement for the renewal of the peace process, signed on January 10, 1994, gave a new impulse to the negotiations, which had stalled days before the *autogolpe*. According to one advisor to the UN Moderator, "the form of the negotiation process marked a qualitative increase in the potential of the peace process in Guatemala..." [49]

With the presence of the UN as both moderator at the negotiating table and in the verification process, the Guatemalan peace process regained the attention of the international community, which had considered it a dead issue. Some popular sectors did not, at first, grasp the advantages of the switch from Monsignor Quezada Toruño's role as conciliator to that of Jean Arnault as UN moderator.[50] The UN role in the peace process (known as the Oslo process) leading up to the *autogolpe*[51] was limited to the participation of a single observer, and civil society had had no official role to play other than participating in the dialogue with the URNG.

48 "Gran Acuerdo Nacional: otro diálogo sin interlocutores," *Inforpress Centroamericano*, February 17, 1994, p. 2.

49 Manuel Rodriguez Cuadros, "El acuerdo global sobre derechos humanos con verificación internacional en Guatemala," *Derechos Humanos* (a publication of the Procuraduría para la Defensa de los Derechos Humanos de El Salvador), vol. 1, no. 1, December 1994.

50 For example, Rosalina Tuyuc of CONAVIGUA and Rigoberta Menchú criticized Quezada Toruño's role change. Iduvina Hernández, "Flexibles, muy flexibles," *Crónica*, January 14, 1994. See also I. Hernández and Evelyn Blanck, "El tema de la paz desató la guerra entre los obispos," *Crónica*, January 21, 1994, for an account of the divergent opinions on this point within the CEG.

51 The Acuerdo Básico para la Búsqueda de la Paz por Medios Políticos [Basic Agreement in the Search for Peace by Political Means], signed on May 30, 1990 in the city of Oslo by the government's Comisión Nacional de Reconciliación and the URNG, set the format for meetings among the URNG and the political parties, the popular, religious and business sectors and others. As well, the parties agreed to hold talks at a later date aimed at reaching a political solution to the internal armed conflict.

The new political process began to take on significance with the approval of the Framework Agreement. This Agreement took up the thematic agenda of the previous process, the components of which were: strengthening civilian power and defining the function of the army in a democratic society, identity and rights of indigenous peoples, constitutional reforms and the electoral system, socio-economic aspects and the agrarian situation, and resettlement of the population uprooted by the conflict. On the other hand, the Framework Agreement generated the official participation of the social sectors through their involvement in the ASC.[52] In addition, the Agreement institutionalized the role of the Group of Friends (Columbia, Spain, the United States, Mexico, Norway and Venezuela) as a support group for the peace process.

Despite these advantages, one should not overstate the influence that the UN can have on the negotiating parties. Almost all analysts agree that, in contrast to the Salvadoran peace process, in Guatemala the parties do not enjoy a high level of representation, the armed forces will not admit that a military stalemate has occurred, ideologies have not softened or become less extreme, and each side believes it has defeated the other. Furthermore, a key factor is that the US government is not involved to the same degree. On this point, the involvement of the United States in El Salvador was of crucial importance in obtaining concessions from the army, while also directly affecting financial contributions to the process of reconstruction. In sum, the Guatemalan negotiation process — whatever form it takes — must be understood in its own specific context.

MINUGUA and the Comprehensive Agreement on Human Rights

The Comprehensive Agreement on Human Rights was signed on March 29. Its content differed only slightly from the draft prepared by Quezada Toruño in April, 1993. It recognizes the direct relationship between respect for human rights and achieving peace. It requires commitments from the parties in terms of respect for human rights both in general and in the specific context of the armed conflict. It stipulates other commitments, including strengthening the human rights protection bodies, taking firm action against impunity, dismantling the illegal security forces and clandestine groups, regulating the bearing of arms, guaranteeing freedom of association and movement, eliminating enforced conscription, protecting persons and entities working in human rights and providing compensation for victims of human rights violations.

One of this agreement's most important effects was the parties' subsequent decision to request immediate international verification. It thus sets out MINUGUA's functions and powers.[53]

A preparatory mission for MINUGUA arrived in Guatemala in September, while the Mission itself was officially established in November 1994. At first, some sectors linked to the URNG hoped that MINUGUA's presence would be a determining factor in strengthening the guerrillas' political position regarding the need for demilitarization. Military officials hoped for a body that would exonerate them of the bulk of the human rights violations being ascribed to them on a daily basis.[54] One year after having opened thirteen offices around the country with a combined staff of 440, its presence has served as a deterrent against human rights violations, but it has not managed to effect a profound change in the behavior of government institutions.[55]

52 The substantive agenda (temario general) was contained in the Mexico accord, signed by the parties on April 26, 1991.

53 Franco, Leonardo, "The International Community and Human Rights in Guatemala: Thoughts on MINUGUA's First Year," report presented in Ottawa, Canada, October 5, 1995. "MINUGUA's functions include receiving, evaluating and following up on reports of human rights violations; verifying that the competent national authority is conducting the necessary investigations... and making statements as to the existence or non-existence of human rights violations... its powers include setting up offices and moving freely throughout the country; holding private interviews with any person or group; freely visiting the office of any state agency or URNG encampment without prior notice, and gathering information relevant to the fulfillment of its mandate."

54 Interviews with Guatemalan NGOs in Mexico, December 1994, and with military officials in the field, March 1995.

55 For a recent study of MINUGUA, see Stephen Baranyi, "The Challenge in Guatemala: Verifying Human Rights, Strengthening National Institutions and Enhancing an Integrated UN Approach to Peace" FLACSO/Guatemala, September 1995. See the section on the human rights movement for more discussions on MINUGUA and institutional strengthening.

By the time this study was concluded, MINUGUA had published three reports. From them it may be deduced that despite some progress on human rights — such as the prohibition of compulsory military service, the approval and reform of legal instruments regarding human rights and the abolition of the position of military commissioner — the government has not shown a clear and firm will to solve such problems as impunity, the persistent violation of the right to life, the army's autonomy in carrying out its counterinsurgency and counter-subversive activities, the shielding and tolerance of government agents in illicit associations, the defective administration of justice, etc.[56] These reports also stress human rights violations by the URNG and the guerrillas' failure to follow through on commitments to cease actions that contribute to the sufferings of the civilian population. However, the reports acknowledge that the URNG's respect for the standards of humanitarian law has undergone a positive evolution, as demonstrated by its cessation of attacks against electrical facilities.[57]

In tandem with its verification function, MINUGUA has prioritized activities such as human rights education and workshops and courses to publicize the agreements, as well as activities to strengthen the public agencies responsible for the administration of justice and the human rights NGOs. Although MINUGUA has contributed by analyzing, then publicizing its analysis of the justice system, and has promoted and protected the right of citizens to demand justice, its capacity to reverse trends it has discovered is hampered by the following phenomena:

- The feeble efforts at the national level to keep up pressure for monitoring and enforcement of the sections of the Comprehensive Agreement and the portions of the Agreement on the Identity and Rights of Indigenous Peoples relating to human rights, which are subject to immediate verification. The Guatemalan sectors that are most militant on the issue of peace are the popular sectors and the human rights NGOs. The organized manifestations of the hegemonic business groups and political parties have not been actively involved. There are no mechanisms for communication among sectors nor negotiations to promote alliances and consensus in favour of peace and democratization. Thus MINUGUA's political dialogue with a "national movement in favour of peace" is of necessity fragile: no such movement exists.
- The absence of a policy of cross-sector relations that would help to fill the above-mentioned void. This absence is notable at all levels of society.
- The delay in signing the peace accords, thereby suspending the possibility of verifying changes made to organizations such as the National Police and the army, considered the principal sources of impunity.

MINUGUA director Leonardo Franco noted that "the Gordian knot consists in the resistance to change that pervades society and the institutions most involved in the peace process and the human rights issue."[58]

The reactions in favour of MINUGUA still tend to be sporadic responses to specific situations although most are positive. However, the media are beginning to draw on the reports to delve into the substantive issues of the human rights situation rather than merely to "keep score" between the government and the URNG. For various media, MINUGUA accurately pinpointed the sources of violence in Guatemala with its third report.[59]

56 See MINUGUA reports published in March, July and October 1995.

57 Franco, L., p. 12.

58 Ibid.

59 See *El Gráfico* and *La República* newspapers for October 31, 1995.

The Resettlement Agreement

On June 17, the parties approved the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, which defines the objectives, principles and guarantees involved in the resettlement of those returning from exile (*retornados*, "returnees"), their recovery of civil rights and re-incorporation into the productive life of their communities.

This agreement is intended to be a global strategy for addressing the problems of the refugee population, the group most affected by the armed conflict. The internal refugee population is estimated at 200,000, while the figure for recognized refugees in Mexico amounted, in 1994, to 46,835 and in Belize, to 2196.[60] According to the figures of the UN High Commissioner for Refugees from 1984 to October 1995, a total of 29,436 Guatemalans had returned with the assistance of that organization. The average annual return never exceeded one thousand persons until 1993, when the return gathered steam (over five thousand persons per year), largely through the organization and under the direction of the Comisiones Permanentes (CCPP) set up by the returnees themselves. As of September 28, 1995, nineteen returnee communities had been created in the departments of Quiché (10), Huehuetenango (3), Alta Verapaz (3), Petén (2) and Escuintla (1).[61]

This agreement provides that the commitments it contains are to be applied through the execution of projects, so that its effectiveness rests on the degree of organization of the uprooted population and of the communities in which they are established. The phase prior to this agreement's taking effect involves the creation of the Technical Commission (two government representatives, two representatives of the uprooted population and two consultants named by international cooperation agencies) and the performance of need and demand analyzes. The popular representatives to the Technical Commission[62] were named by the Assembly of the Uprooted Population, an umbrella group for the organizations of uprooted people founded in July 1991.[63] It was primarily the initiative of these organizations along with the advisory assistance of UNDP and UNESCO that enabled the initial phase of the Agreement to be implemented.

The uprooted population's representatives to the Technical Commission and the organizations of returnees have had to remain vigilant in order to ensure that the government fulfils the commitments it made in 1992 prior to the agreement regarding respect for the rights of this population, especially those relating to land, public safety and mobilization. They have taken an active role in drawing up regulations and guidelines for the return strategy: providing access to land, job and income creation, appropriation of productive channels, participation and assistance in preparing and distributing the corresponding documentation. They are currently involved in special working groups to analyze problems and prepare themselves for the project development phase.

Despite these initiatives, the returnee organizations still lack organizational experience and urgently require training to shoulder the weight of the commitments contained in the accord.[64]

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60 Unrecognized refugees in Mexico numbered 150,000 and in Belize, 10,000. See *Documento de posición de CONGCOOPICOINDE sobre el proceso Post CIREFCA,"* p. 3.

61 UNHCR. *Estadísticas de repatriación voluntaria y de retornos colectivos organizados por las CCPP.* Guatemala, October 1995.

62 The representatives are Alfonso Bauer Paiz and Marco Ramírez.

63 Among the sectors making up and supporting this Assembly is a coalition of organizations that have resulted from repression and impunity, which includes GAM, CONAVIGUA, Consejo de Comunidades Etnicas "Runujel Junam" (CERJ), Comunidades de Población en Resistencia (CPR) and Consejo Nacional de Desplazados de Guatemala (CONDEG), Mujeres Refugiadas "Mama Maquin,". In general, these organizations are united around their call for the demilitarization of society.

64 There are various factions of returnees which differ in their sympathies toward various URNG member organizations. These differences, primarily at the leadership level, have negatively affected the population and fragmented the returnee organizations.

Meanwhile the government has shown no sign of matching the efforts of the uprooted population. It revealed its centralist tendencies by arbitrarily attempting to name a government official to head the Technical Commission, although the returnee organizations managed to reverse this decision. The government has also, without consultation, developed various financing proposals aimed at the international community.

The October 5 massacre at the "Aurora 8 de octubre" returnee community in Xamán, Alta Verapaz, where a twenty-six member army patrol killed eleven people and wounded thirty more, forced a rapid reaction from the organizations involved in the return. They not only demanded an immediate investigation to determine those responsible, but also pointed to the need for further guarantees for the resettlement process so that it could be carried out peacefully and without any military interference.

The Truth Commission Agreement

The signing in Oslo on June 23 of the Agreement on the Establishment of the Commission to Clarify Human Rights Violations and Acts of Violence that have Caused the Guatemalan Population to Suffer (hereafter, "Truth Commission Agreement") drew strong criticism from civil society. In their editorials and public statements, leaders of the popular and human rights movement strongly opposed the accord, both because it contains a clause stipulating that the results would have no legal effect and because it was decided to name only institutions, and not individuals, as responsible for past violations. One ASC member called this "the weakest of the agreements, one whose signing provoked crisis and discouragement among most sectors of the population, including those involved in the negotiations."[65]

Its approval also provoked debate within the URNG, forcing the General Command to spell out its strategy for negotiation. In a draft document dated July 12, 1994, the URNG General Command recognized :

- Its error in having reached this point without evaluating the prior stage of the negotiations and without having taken into consideration and explained to its membership the changes in the general strategy for the new phase.
- The January 10 agreement embodies the overall sense of the negotiations, but with a subtle, nearly imperceptible difference in tactical conception. This implies a qualitative change which led us to agree to the timetable without noticing this conceptual change.[66]

According to the memorandum, the government took advantage of the confusion over this new strategy to launch a propaganda campaign that "took for granted the signing of the peace accords and the advent of the post-war period :"

- When added to the non-implementation of the Comprehensive Agreement on Human Rights, this campaign, which is so vital for the Guatemalan people, sowed doubts among the URNG-affiliated sectors and popular leaders in that it did not fulfill their expectations. Through their own inertia, they were allowing themselves to be carried along by events without due consideration for the deeper meaning of the agreements. Our rallying point that the

65 Sister Argentina Cuevas, "El sector religioso y el proceso de paz," *Verdad y Vida*, July-September 1994, vol. 1, no. 3. As well, Factor Méndez of the human rights group CIEPRODH, in a July 1994 symposium on the Truth Commission, stated that the Agreement "made a mockery" of the people's aspirations, and that it would be the weakest truth commission in Latin America.

66 Memorandum from the URNG High Command, July 12, 1994, 15 pp., manuscript. The authenticity of this draft was confirmed by a member of the URNG political/diplomatic commission in an issue of *Crónica*.

negotiations should serve as a basis for undoing and overcoming the causes of the war gradually gave way in the negotiated texts to greater emphasis on a political solution to the armed conflict.[67]

The Agreement Establishing the Truth Commission had been the "last straw" for URNG supporters and members, whose morale had sagged as enforcement of the Comprehensive Agreement on Human Rights and the installation of the verification mission continued to be delayed. The document noted that many asked, "How is it that the Truth Commission agreement, which should have been more defensible than all the others, turned out to be the weakest one the URNG signed?" It admitted that this had to some extent demoralized those who had always believed that the URNG was a guarantor of historic commitments.[68] The reworking of its strategy towards its core groups of supporters also buttressed the URNG's decision — although it did not say so explicitly — to proceed more slowly in the negotiations and to take a harder line in the continuing process.

Between August and October of 1994, negotiations were at a standstill, primarily because the URNG complained that the Comprehensive Agreement had not been observed and the verification had been delayed. It was in large measure due to the arrival of MINUGUA in September that the negotiations resumed in Mexico on October 20. For two months, the delegations discussed the subject of the Indians, reaching the end of the year without having exhausted the subject or agreed upon a new timetable for the process.

In late December 1994, the UN Secretary-General requested a new timetable from the parties, who responded in an even more polarized fashion. The government proposed overly hurried negotiations (about six weeks) and that some topics be discussed in a civic forum other than the ASC. In opposition to this, the URNG proposed that the ASC consensus documents be ratified and signed without amendment, which would have impeded serious, responsible and necessary discussion of the thematic agenda. As one ASC member commented, each party on its own attempted "to hide its intransigence from the international community by proclaiming aloud its will to achieve peace." [69] The parties' claims encouraged the belief that the signing of the peace accords was imminent given the heightened international pressure for that outcome.[70]

But the proposals were irreconcilable. It was not until the visit of the UN Under-Secretary-General for Political Affairs, Marrack Goulding, in late January 1995, and other consultations with the parties in February, that UN Secretary-General Boutros Boutros-Ghali deemed, in a report published March 1, that the basic conditions existed for a resumption of the process and the continued involvement of the UN.

The Agreement on the Identity and Rights of Indigenous Peoples

Shortly thereafter, on March 31, the Agreement on the Identity and Rights of Indigenous Peoples was signed. It was considered historic and ground-breaking by the parties. UN mediation (and patience), as well as its provision of technical resources for designing the Agreement's wording, were essential in obtaining the consent of the parties. Its signing gave a new push to the negotiations, which had practically ground to a halt due to the failure to fulfil the timetable proposed the previous year

67 Ibid.

68 Ibid.

69 Mario Rolando Cabrera, "¿Conocemos el proceso de paz guatemalteco?", *La República*, January 22, 1995.

70 "UN and Norway try to break deadlock," *Central America Report*, 17 February 1995, Vol. XXII, No. 6, p. 7.

The URNG wished to create a coalition of forces in favour of its position not only to bolster support for national-scale ethnic reform but also to satisfy a key demand of one of its historic social bases, and because, as mentioned earlier, its political image with the popular sectors had been badly tarnished by its signing of the Truth Commission agreement.

The government's intransigence around negotiating the agreement was particularly evident on issues relating to government restructuring and granting autonomy to the Mayan people. The President of the Republic publicly rejected any type of autonomy for the Mayans. On the other side, General Otzoy — a Kakqchikel and the only high-ranking Mayan military officer — declared that the country "is threatened by the ethnic problem... the guerrillas of the twenty-first century may be Indian guerrillas."[71]

To press for the signing of the Agreement following the resumption of negotiations in October, the Coordinadora de Organizaciones del Pueblo Maya (COPMAGUA)[72] organized three demonstrations: a march on October 20-22 from Iximché, Quezaltenango, to the capital and two simultaneous demonstrations on November 29 in Quezaltenago and the capital. On October 26, the URNG published a paid advertisement entitled "The Guatemala of the future will be a nation of national, multicultural and multilingual unity." In this statement, it opposed "vague or ambiguous wording derived from superficial or ad hoc negotiation" and noted that as a result, "one of the principal issues to be resolved is that of defining the nation, a nation of national, multicultural and multilingual unity... overcoming the idea of a centralized, exclusive, racist state."[73]

By virtue of its design, the Agreement became a political instrument for generating new processes. The meaning, stability, depth and scope of these processes will depend on many factors, such as:

- changes in the politics, doctrine, operating methods and control of resources by the army, it being the institution considered the principal violator of indigenous rights;
- changes in the attitude of the Ladino economic elites toward strengthening the state's capacity to increase the social spending budget;
- disposition of the various government bodies and the political class to implement the recommendations of the various commissions created by the Agreement;
- skillful and efficient functioning of the commissions so as to develop a consensus on clear, viable measures to be proposed;
- increased technical, political and lobbying capacity of COPMAGUA and guarantees of the stability of its operations and of Mayan representation on the joint commissions set up to implement the Agreement on Indigenous Rights and Identity (see below);
- commitments of the Indian and popular organizations to participate actively and in coordinated fashion in the MINUGUA-led verification process.

Assuming the basic prerequisites are in place, the processes generated would be as follows:

First, there would be stricter enforcement of respect for the human rights of Indians, especially the Mayans. Second, the way would be clear for the transformation of constitutional and secondary

71 Bastos S. and Camus M. 1995. *Abriendo Caminos*. Guatemala: FLACSO, p. 67.

72 See chapter 3 for a discussion of COPMAGUA's participation in the ASC regarding the Agreement.

73 Paid advertisement. *Prensa Libre*, Guatemala, October 26, 1994, no page number.

laws.[74] Third, commitments would be generated to create and strengthen bodies that protect and promote indigenous rights.[75] Fourth, policies and measures would be generated that ensure the respect of Mayan identity.[76]

This virtually unique state reform program is highly deficient in operational terms. The Agreement defers the adoption of commitments to specific changes in the power structure and delegates to five commissions the management of some of the many suppositions for change contemplated by the Agreement itself. As a political statement, it looks ahead to the political struggle that will be required in order to implement it. The commissions created are: (1) Commission for the Officialization of Indian Languages (with models proposed by representatives from the linguistic communities and the Academy of Mayan Languages); (2) Commission to Identify and Establish Conservation Plans for Sacred Sites: made up of representatives of government, Indian organizations and spiritual guides; (3) Joint Commission for Educational Reform; (4) Joint Commission for Indian Political Reform and Participation, and (5) Joint Commission on the Land Rights of the Indians.

On April 3, 1995, COPMAGUA issued a statement on the Agreement to the effect that it does not encompass all the aspirations of the Mayan people. It termed the Agreement "a minimal but significant step toward strengthening the hopes of the Mayan people to put and end to marginalization, oppression, discrimination, domination, exploitation and colonialism" and offered its commitment to publicize and implement the Agreement among the Mayan organizations.

Successful verification of this agreement will greatly depend upon MINUGUA's ability to establish links between it and the aspects of the other agreements directly or indirectly related to it. It should be pointed out that the final version of this agreement stipulates that everything relating to human rights in Guatemalan legislation and international conventions to which Guatemala is a party shall take immediate effect. For this reason, MINUGUA approved a program of support for the Agreement which includes the following tasks: publicity, design of a proposal for building greater understanding between the institutions of Indian customary law and those of the national justice system, support for establishing government coordinating mechanisms for implementing the reforms contained in the Agreement, support for research on and strengthening of Indian negotiating capacity and recommendations on reforms of the country's educational institutions.

MINUGUA is also planning two pilot projects on the administration of justice. The first, titled "Administration of Justice and Political Pluralism at the Local Level," with its head office in Quezaltenango, is aimed at creating, in coordination with national institutions, a network of Indian language interpreters. The interpreters would be instructed in the implementation of the

74 In areas such as the following: explicit constitutional recognition of the right to the identity of the Maya, Xinca and Garifuna peoples; constitutional reform so as to characterize the nation as one of multiethnic, multicultural and multilingual national unity; classification of discrimination as an offense; classification of sexual harassment against Indian women as an aggravated offense; amendment of the Criminal Code to incorporate the provisions of the *International Convention on the Elimination of All Forms of Racial Discrimination*; constitutional reform to recognize, respect and promote Indian languages; constitutional reform to officialize these languages; reforms of the Municipal Code to recognize the right of the Indian communities to manage their internal affairs in accordance with their customary laws and guarantees of Indian representation at the local, regional and national levels.

75 Institutional support encompasses the creation of the Defensoría de la Mujer Indígena, public interethnic loci for decision-making on planning and execution of cultural projects, strengthening the Academy of Mayan Languages, consolidation of bilingual education bodies and programs, promotion of the Universidad Maya, strengthening the forms of Indian community organization, institutionalizing Indian representation at the local, regional and national levels, and strengthening legal security (ombudsmen, public interest legal firms and courts).

76 For example, publicizing Indian rights, promoting the culture and cultural value of Indian attire, promoting the use and appreciation of all languages, promoting training programs for bilingual judges and legal interpreters, promoting scientific and technological aptitudes, implementing an educational reform, officializing Indian languages taking into account linguistic and territorial criteria, administrative regionalization of educational, health and cultural services for Indians in accordance with linguistic, educational management and cultural criteria, and recognition and guarantee of the right of communities to participate in the use, administration and conservation of the natural resources on their land.

Criminal Procedure Code and would receive training in Mayan cosmovision, culture and values. The second project, titled "Legal Aid in the Ixil Triangle," would offer legal advice on criminal, civil, agrarian, family and labour matters both to individual Indians and to Indian human rights organizations.[77]

But the basic guarantees of the success of the verification process will depend on the willingness of both the government and the Indian organizations to coordinate their efforts to implement the Agreement. One of the immediate challenges will be to offer favourable conditions for the political stability of COPMAGUA, as well as to prepare it technically and in operational terms to put forward appropriate proposals. COPMAGUA must also strengthen its rallying and lobbying capacity in the face of possible manipulation and opposition by the government that will take power in January 1996.[78]

The Private Sector and the Peace Process

Unfortunately, the process once again became bogged down, this time around the theme of socio-economic issues and the agrarian situation, which has not been signed as of this writing. This theme, in conjunction with the one relating to strengthening civilian power and defining the role of the army in a democratic society and the Agreement on the Identity and Rights of Indigenous Peoples, constitute prime means of inducing change in what have historically been the most intransigent segments of the power structure: the army and parts of the organized private sector.[79]

Because historically, Guatemalan society evolved within economic and political models based on Ladinocentrism and exploitation, the country adopted a system of military dictatorship which made it impossible for the private sector to develop organic links with the state. The evolution of the private sector (traditional and non-traditional agricultural exporters, importers, merchants, manufacturers, bankers, medium-sized businesses) has moved through competitive cycles, constrained by its own weakness and generalized dependency on foreign investment.

The organized large and medium-sized businesses do not constitute a homogeneous force and their historical political participation is characterized by relatively little active involvement in determining the country's political direction. As a result, they have not been pro-active in helping to establish the rule of law. Marcie Mersky posits that the prime motivation of this sector has been to promote its immediate economic interests and defend its traditional power.[80]

Three recent cases typify the predominantly and often radically reactive attitude adopted by this sector in defence of its economic interests: a) the 1984 attempt by the members of the Constituent Assembly to establish, in article 39 of the new Constitution, the social function of private property; b) the tax reforms attempted in 1987, 1994 and 1995, and c) government and URNG proposals during the negotiations on socio-economic issues and the agrarian situation.

In 1984, private-sector organizations such as the Centro de Investigación Económica Nacional (CIEN), the Cámara de Comercio, the Cámara de Industria, the Asociación de Caficultores de Oriente de Guatemala, the Asociación de Ganaderos del Sur Occidente de Guatemala and the Unión Nacional Agropecuaria (UNAGRO), used phrases such as "a threat of civil war," "interventionist," and "in violation of human rights" in reference to the proposals of the

77 *MINUGUA INFO*, No. 3, Guatemala, September 1995.

78 COPMAGUA's first reorganization took place in July 1995, when the Asamblea del Pueblo Maya (APM) withdrew and the Unión del Pueblo Maya de Guatemala and the Consejo Maya Tukum Umam joined.

79 For an overview of the army's role, see chapter 1.

80 Marcie Mersky, "Empresarios y Transición Política en Guatemala," unpublished manuscript, "Processes of Democratization in Central America" project, CSUCA, Nov. 1988.

Constituent Assembly."[81] In the end, Article 39 was amended under pressure from the business organizations, whereupon they disappeared from the political scene.

The fight against tax reform was spearheaded by CACIF. The three timid reform attempts mentioned (the first during the administration of Vinicio Cerezo and the others under De León Carpio) never amounted to an overhaul of the regressive Guatemalan tax structure.[82] Yet in response to the first of them, CACIF launched publicity campaigns with the slogans "the government says yes, the people say no!," "rich government, poor people," and "Guatemala's future lies in economic recovery, not tax-induced recession." At its most extreme, this opposition was expressed through business shutdowns.[83]

In the case of the June 1994 tax reform package presented by the Ministry of Finance to Congress, CACIF launched a major lobbying campaign, successfully convincing the legislators to postpone its approval until November. But during the first quarter of 1995, CACIF adopted the approach of settling its conflicts through legal channels. Thus it took action before the Constitutional Court and was successful in having various fiscal measures adopted months before declared unconstitutional. Tension between the executive branch and business set off speculation about a *coup d'état*. This rumor gathered steam when President de León Carpio, on a visit to El Salvador, made a lightning return to Guatemala to propose to ask then President of the Congress General Efraín Ríos Montt to back the executive's stance on the tax proposal.

The private-sector organizations linked to the agricultural sector made a similar ad hoc intervention when the URNG and the government began discussing the theme of socio-economic issues and the agrarian situation. Signing of the corresponding agreement was delayed in part by intensive lobbying of government and the army by the agrobusiness federations to have their interests and positions taken into account. CACIF also voiced its opposition to various positions taken by the parties on this issue, albeit in a more moderate tone.

On June 9, CACIF member Marco Augusto Garc'a Noriega, referred to the UN proposal as "developed without a solid foundation, and putting it into practice would mean plunging the country into an insurmountable crisis... with the return to a centralized economy." [84] Member businesses of the agribusiness umbrella group Cámara del Agro and the Consejo Nacional Agropecuario (CNA, which includes landholding army officers and is considered by De León Carpio to be a shell organization) launched an international campaign to denounce the collection of war taxes by the URNG as being in violation of international humanitarian law.[85] This charge was an attempt, on the one hand, to build opposition to the practice of the collection of "war taxes" by the URNG and, on the other, to stake out a strong position so that the UN and the negotiating parties would have to consult them on key issues such as landowning and tenancy, the role of the state in the economy, tax reform and the constitutional provision requested by the URNG that would establish the social function of private property.

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81 Mersky, pp. 11-13. The author observes that the Cámara de Industria manipulated public opinion with slogans such as "private property doesn't just mean big business. Your plot of land, your house, your car, all your possessions — that's private property too."

82 Each of the three times the government tried to implement income tax reform, it was forced to either reduce the amount of the increase or abandon the proposal. The reforms increased or decreased taxes without substantially altering the tax burden on the fixed-income population. In the process, the government managed to improve tax collection arrangements somewhat so as to get better control over tax evasion. The Ministry of Finance estimates value-added tax (VAT) evasion at 40% and income tax evasion at 50%. Guatemala is the Central American country with the lowest tax burden: its ratio of tax revenues to gross domestic product is under 9% compared to a Latin American average of 19%.

83 Mersky, p. 15.

84 *Inforpress*, no. 1131.

85 Additional factors in the negotiations on this issue were 1) the complaint by agribusiness organizations that MINUGUA was failing to condemn invasions of estates by peasants (which is beyond the scope of its mandate); condemnation by the private sector, the Church, the PDH and MINUGUA of the so-called "war tax," collected from estate owners by the URNG; and a pastoral letter by the CEG on peace which discussed the theme of the unjust distribution of land.

The CNA even accused COPAZ president Héctor Rosada of eight offences, including "negotiating with illegal groups." In support of these charges, Cámara del Agro president Humberto Preti lambasted the government on October 22 for "failing to consult landowners as it did the Indian sectors; and as it will the army on negotiations around the agenda item 'strengthening civilian power and defining the function of the army in a democratic society."[86] Meanwhile CACIF, represented by Enrique Neutze, had reported to UN representatives Gilberto Schlitter and Jean Arnault in the first week of October that the war tax had already cost landowners nearly US$47 million.

An editorial in *Siglo XXI*, a daily newspaper representing the interests of a modernizing segment of the business sector, observed that:

> "The official discussion proposal, as reflected in the UN document, demonstrated that our authorities are not clear on all points. In general, the strategies presented by the government are not concrete, much less realistic. It would be better to discuss the URNG's proposals directly, since they at least are consistent with its vision of the country's problems, rather than the government's wishy-washy proposal to the UN."[87]

Regarding the peace process, it should be noted that CACIF was the only organization, among all those participating in the dialogue with the URNG promoted by the Oslo Accord, which decided not to participate in the ASC.[88] It thereby demonstrated its denial of this body's legitimacy and unwillingness to participate politically in a forum it would not be able to dominate. The organized manifestation of Guatemalan big business preferred to maintain its position of strength by distancing itself from the negotiations and setting itself up as a parallel force to be reckoned with.

Thus, the organized business sector has maintained its tendency to resist full integration into the dynamics of democratization. Instead, it has engaged in ad hoc struggles in which it defends various of its strongholds. However, the differing visions of society represented within this sector have persisted and become more visible during the political transition initiated in 1985. One notes a movement within the business sector that favours direct involvement in managing public affairs and influencing decisions relating to the democratization and modernization of the state.

The business sector includes tendencies or forces linked to either the old guard or the modernizing new right.[89] The first tends to be "authoritarian in its behavior, rigid in its thought, uncompromisingly anti-communist, and unaccustomed to having its power questioned... The second is more flexible and more committed to political modernization; not only does it seek to lead the sector, but also it has an essentially consensus-based project to establish its hegemony over the whole of society."[90]

Generally speaking, the first of these currents is represented by the positions taken by the agribusiness associations, coffee growers and cattlemen's organizations, which include the majority of landowners. The second is increasingly represented by the directors of CACIF and individuals and groups linked to productive, financial and commercial industries involved in non-traditional

86 *Prensa Libre*, October 22, 1995.

87 "El Gobierno debe precisar su posición con la URNG", *Siglo XXI*, June 12, 1995.

88 *Documentos básicos del proceso de paz*. Guatemala: FUNDAPAZ, July 1994.

89 Mersky.

90 Ibid., p. 35.

export, and new generations of entrepreneurs specializing in management techniques.[91] Consequently, CACIF is turning out to be the body with the greatest capacity to build consensus among the various currents.

It is this latter tendency that shows more interest in joining a consensus aimed at exerting power over state policy. It is also less intransigent toward basic or minimal reforms that address poverty (without, however, entailing a thorough transformation of the exclusive socio-economic structure). This stance is beginning to modify the traditional corporate position that is characterized by an unwillingness to initiate dialogue, discussion or negotiation and by the absence of a long-range national vision. It is also useful to the civil service as a source of managers interested in offering advice and influencing the effective, efficient, decentralized and transparent functioning of public institutions. It is also more openly and publicly acquainting citizens with corporate thought with reduced risk that disagreement with its point of view will inevitably lead to a radical confrontation.

In December 1994, CACIF's peace commission published a document titled *Guatemala: Reflexiones del pasado, Consideraciones del Presente y Recomendaciones del Futuro*, which presented a general development strategy with suggestions for guiding what it termed "a real national reorganization." According to CACIF, Guatemalan society lacks objectives to guide policy along a "national pathway" (*rumbo nacional*). One of the first steps in putting its strategy into effect is to reorganize the three branches of government. Its proposals call for simplifying the functions of these institutions and repealing antiquated laws that restrict individual freedom. CACIF offers no critical discussion of the system of public political participation. Neither does it analyze or offer its position on militarization and adapting the administration of justice to the multiethnic nature of society.

CACIF places emphasis on implementing economic and political changes that would end government involvement in activities the organization considers to be outside its purview, such as telephone service and electrical power. In its view, the government's size and inefficiency are the main obstacles to development. It conceives of a reformed executive body as relinquishing its role in planning, carrying out and supervising public works, leaving these functions to private initiatives.

CACIF is offering up its draft agenda for national debate and calling for discussion on its proposed policy measures, suggesting that the point of departure be the recognition of three principles: democracy, the rule of law and a market economy. It defines this latter principle, the one most closely linked to its own vision of society, as "the free production and exchange of goods and services within the framework of competition, whereby consumers satisfy their needs at the best possible quality and price." [92] Unregulated pricing is one of the underpinnings of this socio-economic vision.

This principle differs fundamentally not only from the proposals put forward by the ASC in the context of the peace negotiations, but also from the national blueprint (*proyecto de nación*) published by the URNG,[93] and from the political discourse of the new democratic left, represented in Congress since the November 1995 general elections. The disagreements do not matter as much as the new methods available for settling them. It is incumbent on the ASC sectors to open themselves to a new understanding of the Guatemalan private sector and to put forward a proposal for dialogue with it.

91 For a more detailed description of the private sector organizations, see Luis Everardo Estrada Vásquez et al., *Los Empresarios como actores sociales frente a la modernización del Estado y la sociedad guatemalteca*, Dirección General de Investigación, Universidad de San Carlos, Guatemala, 1994 and Rachel Garst, "El sector privado organizado en Guatemala" (unpublished).

92 CACIF, *Guatemala: Reflexiones del Pasado, Consideraciones del Presente y Recomendaciones del Futuro*. Guatemala, December 1994.

93 "CACIF Rechaza Documento de la ONU," *Siglo XXI*, June 10, 1995, p. 6.

The peace process greatly facilitated basic dialogue among sectors that had previously upheld irreconcilable political visions and ideologies. It was possible to establish lines of communication between the ASC and the private sector through individuals from the private sector such as Luis Reyes Mayén and Peter Lamport, members of CACIF's peace commission. However, this communication is still intermittent because the two groups have not defined a common, permanent agenda for debate and have not opened up for discussion the expansion and coordination of their respective spheres of political action.

The communication gap between these sectors and the government is also wide. On this point, CACIF has noted that Guatemala suffers from, among other things, a lack of a broad-based agenda for defining a national blueprint. The fact that CACIF presented its national blueprint within the framework of the implementation of these accords could aid the democratic transformations that have been set in motion. CACIF thereby showed its willingness to dialogue with the ASC groups and other NGOs. The majority of these latter have retained a negative image of the private sector due to the severely unbalanced distribution of property and income.

THE CONTRIBUTION OF THE ASC

In the January 10, 1994 Framework Agreement, the parties agreed to promote the creation of an assembly with the participation of "non-government sectors of Guatemalan society of recognized legitimacy, representation and legality." According to the Agreement, the purpose of this body, which would become the ASC, is to discuss the substantive agenda, draw up consensus documents and transmit them to the parties.[94] The ASC's recommendations, although not binding, would be intended to "facilitate understanding among the parties."

Fearing laborious discussion among an excessive number of sectors, the parties also included in this agreement a clause preventing the ASC from delaying the negotiations: "The Assembly shall discuss the substantive agenda in accordance with a schedule corresponding to the timetable established in the bilateral negotiations, and it may not delay the process of bilateral negotiation." As a final step, the Agreement provided that the signed agreements would go to the ASC for ratification, giving them "the force of national commitments, which will facilitate their implementation."[95]

The integration of the various sectors of civil society was somewhat slow for a variety of reasons. First, a debate began among the leaders of the sectors involved to understand the implications of the fact that its work would not be binding on the negotiators. This limitation raised doubts in many sectors, including the Bishops' Conference, which was responsible for appointing a representative to convene and preside over the ASC. Initially, the Bishops' felt that the role asked of Quezada Toruño by the parties was nothing more than that of "a messenger service." The bishops also, having learned through direct experience of the problems that arise from differing visions of the peace process, were skeptical as to the good will of the parties

> ... for COPAZ, the core of the negotiation process appears to be the end of the armed conflict, while for the URNG, it is the disappearance of the social causes that produced it. As long as these opposing conceptions of peace for Guatemala persist, we believe that the function of the Assembly, and consequently, that of its president, are not adequately defined and its effectiveness is highly restricted, not to say lost altogether.[96]

94 Specifically, the Agreement states that the ASC is to discuss points II through VII of the Temario General del Acuerdo de México, thus excluding "democratization and human rights." It appears that the decision to exclude human rights from the ASC's mandate was motivated by the idea of avoiding controversy around what had been a sticking point of the previous negotiations.

95 And since its proposals are not binding, neither is its ratification: "... should a bilateral agreement, for one reason or another, fail to be ratified, this Agreement shall remain in force."

96 See CEG communiqué on the resumption of peace talks between the government and the URNG, Guatemala de la Asunción, February 2, 1994. In: *Verdad y Vida*, quarterly journal of the Oficina de Derechos Humanos del Arzobispado de Guatemala (ODHA), January-March, vol.1, no. 1.

For these reasons, the CEG decided not to convene the Assembly until an agreement on human rights was reached and the terms of immediate international verification and timetable of the process were defined.

Following the signing of the Comprehensive Agreement on Human Rights in late March, the CEG decided to name Msgr. Quezada Toruño, the Bishop of Zacapa, to chair the new multi-sector body for a five-month period. At its inauguration, he opined that the ASC would have "considerable moral weight at the negotiating table."[97] The popular sectors, which until that point had shown little enthusiasm for the process, were encouraged by his involvement. As Byron Morales of UNSITRAGUA said:

> We reached the conclusion that whether binding or not, what would emerge from the Assembly would basically be determined by two things: the levels of consensus and the levels of struggle... Even if it were binding, that still would in no way guarantee that at the negotiating table, the contributions of the various sectors would be embodied in the Agreements. So it's determined by the struggle, by how well our organizations are able to organize.[98]

The URNG announced that the establishment of the Assembly was "a major advance and the beginning of a new phase in the negotiating process." It added that the ASC's proposals "must be taken into account and given weight by the parties, in their conclusions and agreements. It is a moral and political obligation. This shall be the URNG's unwavering and permanent position on this matter." [99]

After the CEG and other sectors agreed to the founding of the ASC, the issue arose as to which sectors would be represented in it. A debate emerged unrelated to the relevant clause of the Agreement, which had stipulated the participation of all non-government sectors of society of recognized legitimacy, representation and legality. The debate was caused by the many applications to participate by different groups, some of which were civil defense patrols (PACs) disguised as community organizations.[100] This delayed the founding of the Assembly by several days. It finally occurred on May 17, 1994.

It was finally agreed that the ASC would be composed of ten representatives (five regular and five alternate) from the following eleven sectors, the first five being the sectors that participated in the meetings ensuing from the Oslo Accord:

> (1) political parties (El Escorial); (2) CACIF (Ottawa); (3) religious (Quito); (4) union and popular (Metepec); (5) academics, cooperative members, entrepreneurs, community organizations and professionals (Atlixco); (6) Mayan peoples' organizations; (7) women's organizations; (8) journalists; (9) NGOs; (10) research centres and (11) human rights protection and promotion centres. The ASC president was supported by a secretary-general, Mario Rolando Cabrera, and an organizing committee composed of the Oslo bodies and sectors plus the Mayan sector. Each sector was responsible for meeting and electing its representatives.

As discussed above, the sector that never joined the Assembly was CACIF. According to Cámara de Agro president Luis Reyes Mayén, CACIF decided not to participate because it felt the body's structure, methodology and mechanisms had serious defects. He argued that some

97 Interview with Rodolfo Quezada Toruño, *Crónica*, April 22, 1994.

98 Interview with Byron Morales, May 14, 1994.

99 URNG communiqué, April 28, 1994.

100 Carmen Alda Ibarra, "Quezada solicita al Gobierno-URNG clarificar integración de la ASC," *Siglo Veintiuno*, May 3, 1994.

organizations were unincorporated and others were unrepresentative, while the ASC "makes them into a sounding board for the ideas of the URNG within the Assembly." [101] What concerned Reyes Mayén was that:

> Although its decisions are not binding, the ASC can have a decisive influence on the future of the process and, as a result, on the future of the country. We do not want to be jointly responsible for a negative influence; we would rather renounce this forum than participate in generating solutions that compromise Guatemala's future.[102]

Despite this position, a meeting was held in August with ASC members and the CACIF peace commission Ñ brought together through the good offices of US ambassador Marilyn McAfee Ñ to discuss the possible integration of CACIF into the ASC and other possible avenues of collaboration. Nothing concrete resulted from these meetings.[103]

As to its methodology, the ASC prepared a consensus document each month on the relevant substantive agenda item as per the negotiating schedule. Each organization prepared a document to be discussed within its sector. Later, the consensus documents from each sector were delivered to a drafting committee which prepared a draft document to be discussed by all ASC representatives. Non-member organizations of the Assembly could send their documents directly to the ASC's secretary-general. Support groups made up of non-members also participated in writing documents within their organization or sector.

The dynamic of grassroots participation varied considerably from one sector to another. The structure of most organizations was characterized by the centralization of functions in a few leaders, vertical structure and minimal capacity for rapid internal communication. That combined with the speed at which the documents had to be produced led to the work of the ASC taking place principally in the capital[104] and "behind closed doors." [105]

In retrospect, another deficiency was that the ASC did not favour processes to extend its deliberations to a national debate on the peace process. This was in large part due to UN Moderator Jean Arnault's request that publication of the consensus documents be withheld until the parties discussed each topic, as well as to a lack of publicity policies and resources.[106]

Other participants noted that problems arose in the process of debating the wording of and drafting the consensus document. In the judgement of various members, "the prejudices, fears and mistrust of certain groups that were constantly on display resulted in the drafting being delayed so as not to offend susceptibilities or contradict anyone's opinion." [107] Another participant criticized the Assembly for failing to overcome its sector-focused vision, citing the union and popular sector's hegemony over the body as the cause of this. This sectarian dynamic became apparent in the following way:

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101 Interview with Reyes Mayén published in *Siglo Veintiuno*, May 26, 1994.

102 Ibid.

103 In the opinion of U.S. State Department official Richard Nuccio, Quezada Toruño erred in not communicating officially and directly with CACIF regarding its participation in the ASC. According to Nuccio, CACIF members first learned of the group's supposed participation in a newspaper. Interview with Richard Nuccio, Washington, DC, January 20, 1995.

104 Interview with Nineth Montenegro, December 15, 1994.

105 Interview with Byron Morales, December 9, 1994.

106 The URNG also acknowledged the ASC's limited purview when it spoke of the need to explain the negotiating strategy to its bases and the public: "... that degree of consultation goes beyond what the ASC can contemplate." Memorandum from the URNG General Command, July 12, 1994.

107 Carmen de León Escribano, cited in Félix Colindres, "Civiles en Campaña," *Crónica*, September 9, 1994.

> The union and popular sector would say, "we oppose such and such." Immediately, the Mayan sector would say, "yes, we support the union and popular sector." The women would get up and say, "we support what those two just said."... What was the idea of this support?... They were looking for it to be returned when it came to defending their own positions... this resulted in positions which, in the end, did not lead us to develop and establish consensus.[108]

Despite these criticisms arising from within the ASC, all participants recognize the importance and the value of this new experience in political relations. Despite the difficulties, the parties experienced a process of learning how to negotiate and develop proposals that reveals the effeteness of the radical tradition which had evolved during the decades of political repression. According to one member of the union and popular sector, this experience:

> should not be measured only by the contents of whatever consensus documents the ASC produced, but also by the foundations that were and are being laid in the process of rearticulating civil society.[109]

Another participant from the same sector explained that "it is helping us gain much more awareness of our responsibility to contribute to the peace process."[110] The significance of this experiment in cross-sector relations was also grasped by journalists, one of whom wrote that "the ASC is being taken as a sign of society's awakening and as an example of the voice being found by those who had been on the margins of discussion of national issues."[111] Thus the mere fact of sitting down to debate all issues of national scope and reaching consensus was seen as a major advance by many sectors.

The ASC's contribution has been evaluated less positively by some representatives of the Group of Friends. According to one US government official, it had been hoped that the ASC would spur on the peace process, which did not occur, although he admits that the government also bears a large responsibility for that. In the end, the ASC provided proposals that were more programmatic than pragmatic for seeking consensus among the parties and, in contrast, the bias of its positions was backed by only one of the parties, the URNG.[112] Despite this comment, there is an acknowledgement within the international community that given the weakness of the national forces monitoring compliance with the Agreements, the ASC has the potential to act as a locus of basic dynamics favouring peace.

The government's stance on the ASC has been erratic. The tendency, especially on the part of Héctor Rosada and high-ranking army officers, has been to deligitimize it, underestimate it and criticize the closeness of its positions to those of the URNG. When in December 1994, the ASC proposed that the Minister of Defence be a civilian, then Minister of Defence Mario Enr'quez commented that they were "leaning towards" the URNG.[113] This image gained credibility when the ASC began to address the Indian issue, and later when the URNG proposed that the ASC consensus documents be adopted as definitive in the bilateral talks. Quezada Toruño had to defend the ASC from such versions.[114] Among other things, he mentioned that the ASC's statements Ñ far from being aligned with those of the URNG Ñ closely resemble the results of a nation-wide

108 Interview with Mario Rolando Cabrera, November 9, 1994.

109 Interview with Byron Morales, December 9, 1994.

110 Interview with Amílcár Méndez of CERJ, June 22, 1994.

111 Gustavo Berganza J., "La voz de la sociedad civil," *Crónica*, October 14, 1994.

112 Interview with Richard Nuccio, Advisor to Assistant Secretary for Inter-American Affairs Alexander Watson, Washington, DC, January 20, 1995.

113 "Ministro de la Defensa acusa a grupos de la ASC de ser proclives a la URNG," *Prensa Libre*, December 7, 1994.

114 See a December 1994 series of editorials in *Prensa Libre* titled "Pido la palabra... (Reflexiones sobre los documentos de la ASC)."

survey conducted by the PDH under De León Carpio. In that study, some 10,000 people from the same sectors as those making up the ASC had been surveyed.

Although the Bishops had initially envisioned a five-month time frame, Quezada Toruño requested an extension due to delays in the negotiations. However, when an impasse was reached in December-January, the bishops decided, on January 31, 1995, to withdraw their representative. In their communiqué, the bishops granted the validity of Quezada Toruño's contribution, but held that "he cannot be a party to the political games being played during the extended impasse in the process."[115] According to journalistic accounts, Quezada Toruño had taken umbrage at the URNG's manoeuvring to take control of the ASC's proposals.[116] Additionally, *Crónica* cited diplomatic sources as stating that some ASC sectors began to use the ASC name in international funding applications for political projects.

The Framework Agreement made no provision for the Assembly to function without a president, in whom all power to convene meetings resided.[117] The departure of Quezada Toruño was a blow to the workings of the ASC, which had been characterized by efficiently holding to its timetable. Over the next several months, the organizing committee fell progressively further out of step with the constituent organizations, as the former maintained the internal discussion about the future while several organizations withdrew or reduced their participation. During this transition, various comments and proposals about new Assembly functions were put forward. These included becoming a body devoted to lobbying and pressuring Congress; creating alternatives or political loci of participation in the electoral campaign; proposing that the agreements be ratified by a national constituent assembly; becoming the national body responsible for verification; or broadening its membership to include other sectors of society, such as CACIF, in the hope of delineating a more fully shared *proyecto de nación*.[118]

Finally, in April 1995, the ASC overcame the effect of Quezada Toruño's withdrawal and approved a plan of work for four strategic foci of action: the peace process (promoting debate, offering proposals, expediting the process, breaking the secrecy of the negotiations, monitoring respect for human rights); social mobilization and citizen participation (promoting and strengthening the participation of civil society, creating a social movement); national debate and national blueprint (converting the consensus documents into a component of a national blueprint), and internal organization (strengthening its own workings and impact). It made the organizing committee its coordinating entity and set up various working groups: strategy, finance, relations, press, education and publicity, internal relations and ad hoc committees.

Despite this effort to develop planning, in practice the Assembly has not managed to articulate its work in a manner that heightens its impact. One factor that marred the continuity was that several organizing committee members (e.g., Byron Morales, Nineth Montenegro and Rosalina Tuyuc, all running with the Frente Democrático Nueva Guatemala (FDNG), a new broad-based left-wing political party) quit to participate in the general elections in November 1995. Between January and September, the members of the ASC met only twice with the URNG General Command to discuss the negotiations, and only once with COPAZ president Héctor Rosada. It hardly debated or publicized the agenda item of socio-economic issues and the agrarian situation. The interinstitutional, cross-sector relations and coordination needed to follow through on its recent objectives and actions, such as monitoring the government's behaviour, coordinating with MINUGUA, lobbying, publicizing the accords and analyzing the experience, were weak.

115 "Retiran a Quezada de la Asamblea de la Sociedad Civil," *La República*, February 1, 1995.

116 Carlos Morales Monzón, "La sociedad civil pierde espacio," *Crónica*, February 10, 1995.

117 The same problem was noted by the government in its letter to the UN Secretary General of February 20, 1995.

118 Interviews with Mario Rolando Cabrera, November 9, 1994; Nineth Montenegro, December 15, 1994; and Byron Morales, December 9, 1994.

Apart from ad hoc criticism regarding human rights related problems affecting the population, perhaps the ASC's most concrete contribution in 1995 was to organize, at the initiative of the NGO sector, a lobbying document to give input into the work of the informal June 1995 meeting in Paris of the Grupo Consultivo, a group of international lending agencies and governments which meets under the auspices of the World Bank to evaluate financing applications from countries.[119]

Through consensual processes, the ASC wrote and approved a set of proposals for mechanisms to implement and monitor the funding sought from the international community for the implementation of the accords. It formed a working group to design and carry out an intensive lobbying plan to make its proposals known to the government, the private sector and the diplomatic corp. A delegation from this body went to Washington, D.C., where it met with US government officials, international financial organizations, embassies and NGOs to seek support for its position. As a result of these efforts, the US delegation to Paris included five points suggested by the ASC in its proposals. These included making the aid conditional on compliance with MINUGUA's recommendations, involving civil society in reconstruction, and recommendations that the government demonstrate its ability to sustain the reconstruction with its own resources. In addition, Rosada committed himself to meeting with an ASC group after the Paris meeting to work on a consensus document to be presented at the official Grupo Consultivo meeting in 1996.

THE GENERAL ELECTIONS

From 1994 onward, apprehensions grew of the possible involvement of the former *de facto* head of state, General Efraín Ríos Montt, in the 1995 general elections. This generalized concern grew because Ríos Montt's party won the 1994 congressional elections by a substantial margin. The general, first elected to Congress as a member, soon became president of it. However, his presidential aspirations fell apart in 1995 when, in a context of intense political struggle, the Supreme Electoral Council and the Registro de Ciudadanos (Citizens Registry) disallowed his candidacy on constitutional grounds, arguing that he was disqualified as the former leader of a coup d'état.

Despite the general's exclusion, his party, the FRG, garnered the second-largest vote total (22%) in the November 12 elections. In line with poll predictions, the PAN led with 36.5% of the vote. In the absence of a majority, the President of the Republic was to be chosen from these two parties in a run-off election on January 7, 1996.

A total of 19 electoral tickets for the presidency and vice-presidency, put forward by 16 parties and three political alliances, were in the running. The large number of candidates reflects the fact that the political party system is not based on competing platforms and does not facilitate alliances around platforms. Rather, it has favoured *caudillismo* and vote manipulation as means of defending political patronage and privilege.

A majority of the participating parties arose from the fracturing of the traditional right-wing. These groups (MLN, CAN, FRG, UCN, PDP, FUN, PIN, MD, PP, CAMHINA, MPL, PCN, PDG, PREG) all declined to propose structural reform to the political system. A few, like the PAN, offered a modernizing image tied to the market agenda of big business. Others (PSD and DC) continued to put a radical spin on their left-wing, social democratic or social Christian past. As well, there were political forces arising from the urban middle class which presented a centrist discourse, distancing themselves from the political polarization that had resulted in the internal armed conflict (UD, DIA, PLP, AP-5). Fourteen of these groups lost their official party status by failing to achieve 4% of the vote as required by law.[120]

119 Interview with Carmen Rosa de León, September 1995.

120 As of 1996, the only officially registered parties are PAN, FRG, FDNG, DC, UCN, UD and MLN.

For the first time in Guatemala's electoral history, the NGOs carried out civic education and supervision of the polling. Organizations such as the Rigoberta Menchú Foundation, the Myrna Mack Foundation, INCIDE and Servicios Jurídicos y Sociales (SERJUS), conducted intensive education campaigns encouraging voters to inform themselves and vote without fear and facilitating political organization processes at the community level.[121] The OAS sent a delegation of international observers and will deliver a report to the government with an analysis of the system of political participation.

Prior to the elections, the electoral register had stated that the 60,000 new voters registered during the second quarter of that year had probably resulted from these campaigns, which also included the Bishops' Conference's call for participation in the electoral process and the URNG's decision not to call for abstention. Abstention, although high (53%), was less than expected. The principal explanation of this phenomenon is that most Guatemalans remain profoundly distrustful of political institutions and are not convinced of the existence of meaningful alternatives. However, another important cause is that the electoral infrastructure is extremely precarious, deficient and centralized in terms of the number and location of polling stations and availability of transportation to them.

Despite the abstention statistics, the election revealed greater organizing at the community level to achieve local power. In the municipal elections 1995, there were 160 registered civic committees, up from 100 in 1993. Twenty Indian civic committees were elected, three in capital cities (departments of Quezaltenago, Sololá and Santa Cruz del Quiché). The majority of losing Indian civic committees remain on the scene and are showing interest in receiving training in municipal lobbying.[122] The organizing and campaigning of many new committees were seen to be constrained by at least two phenomena:

1- New civic education needs arose around acquiring experience in political organization, planning of municipal government programs, negotiation and alliance-building, knowledge of the relevant laws (Constitution, Elections and Political Parties Law, Municipal Code), understanding of what the government and public agencies are and what they do.[123]

2- The stirrings of a process whereby the army is losing control over communities. In various localities in the western part of the country located in the zones of armed conflict, the military commanders intimidated the population with threats such as "if they vote for the FDNG, they are going to regret it." In Cunén, Quiché department, and Cobán, Alta Verapaz, army officers opined publicly that Rigoberta Menchú was a guerrilla, while the San Juan Ermita, Chiquimula base commander made the same comment before a crowd in the public square. Radio Chortí in Chiquimula, which broadcast the Menchú Foundation's civic education programs, was intimidated by army officers demanding to see their papers and asking for their address.

121 The Myrna Mack Foundation wrote a series of newspaper articles offering analysis of the electoral context and descriptions of the participating parties. SERJUS offered civic education courses and accompaniment to give the civic committees methods and techniques for organization and political propaganda. INCIDE promoted the formation of civic committees. The Rigoberta Menchú Foundation held over 50 community forums featuring debates among mayoralty candidates. It also promoted local and departmental radio campaigns and workshops to inform people of their civil rights and of the voter registration and polling procedures. It gave general criteria to aid citizens in making their decision conscientiously.

122 The Xelju civic committee, which has been in existence for nearly 20 years, won the municipal elections in Quezaltenango, the country's second largest city. It visited all the Indian committees in the western zone to establish communication and exchange experiences.

123 Interview with Claudia Samayoa, member of the coordinating committee of the civic campaign of the Rigoberta Menchú Foundation, November 1995.

This experience in community politics may be considered one of the most positive developments in this electoral process. It gave civic organizations an opportunity to reassert their right to influence public decisions. The other event of political import was the FDNG's electoral showing of fourth place in the presidential elections and third in the congressional elections. The party won six seats in Congress, two in the Central American Parliament and four mayoralty races. The FDNG is the first leftist political organization in nearly four decades of proscription and repression to legally win a share of power in the government. In this, it broke with the monolithic right-wing tradition upon which the structure and functioning of Congress had been based.

Starting in early 1995, scattered groups of politicians, intellectuals, professionals and URNG dissidents began to discuss the possibility of forming a broad front of the democratic left to participate in these elections. The meetings they held over several months resulted in a pluralistic organization. Individuals involved in this process included Oscar Clemente Marroquín Milla, Alfonso Bauer Paiz, Mario Alfonso Bravo, José Cruz, Alfonso Fuentes Soria and Miguel Angel Albizúrez. The Foro Político Democrático de Mujeres and other member organizations of the Movimiento Cívico Democrático also participated. They began their collaboration by defining a strategy and platform of governance.

When, in mid-May 1995, the URNG General Command decided to publicly promote electoral participation, the popular movement joined forces with other leftist groups. This had a quickening effect on the FDNG's formational process and candidates for president and vice-president were chosen: respectively, Jorge González del Valle, who had been president of the Central Bank at the start of Ríos Montt's *de facto* rule, and Juan León Alvarado, a founder of the Comité de Unidad Campesina (CUC), a popular organization noted for its role in leading plantation strikes by peasants, and current leader of the Defensoría Maya and Majawil Q'ij.

This selection was not achieved without political reversals. A potential alliance between various small political parties (including Oscar Clemente Marroquín's Social Christians) crumbled due to disagreements over candidates. Likewise, the organized women's movement and URNG dissidents quit the FDNG before it chose its candidates. Another point that caused tension was the decision to negotiate with the Partido Revolucionario (which later agreed to change its name to FDNG) to use its legal status to run the political campaign. This decision was opposed with the argument that the Front was violating its principle of not forming alliances with parties that had participated in corrupt or authoritarian governments.

In reality, the broad consensus that was to have been catalyzed from the left never came into being. Many popular movement leaders automatically became the main candidates of the new political entity, evoking and reproducing the errors of vertical organization and control historically characteristic of the left. According to political analysts, the example of El Salvador and the experience of its FMLN guerrilla movement were instructive in this regard. Instead of forming an artificially broad coalition destined to break up after achieving its sole purpose of placing its members in Congress (as the FMLN did), the Guatemalan left chose to seek an ideologically pure formation from the outset.

In the event, the FDNG participated in the elections as the representative of the Guatemalan popular organizations with varying degrees of sympathy for the URNG.[124] It consisted of three broad currents of the popular movement:

124 In May, Rolando Morán, commander of the EGP wing of the URNG, alluded to this popular coalition when he stated that "the URNG will participate actively in the elections within a broad front of political and social organizations."

- The trade union organizations, including the BANVI union; UNSITRAGUA; Sindicato de Trabajadores del Instituto Nacional de Electrificación (STINDE), the electricity utility workers union; FESOC; STEG; Unión de Trabajadores de Quezaltenango (UTQ); the Sindicato de Trabajadores de Caminos (STRAC), a road construction workers' union; the Asamblea Nacional de Salud Pública, the DIGESO union and FENASTEG.
- The groups AEU; GAM; Asociación Nacional de Estudiantes de la Educación Media (ANEEM); Consejo de Desplazados de Guatemala (CONDEG), representing internal refugees; CONAVIGUA; Consejo de Comunidades Etnicas Runujel Junam (CERJ), a peasant group leading resistance against compulsory participation in the PAC; CEEM; Comunidades de Población en Resistencia (CPR), an organization representing groups of Ixil internal refugees living in remote areas of northwestern Guatemala; and the CUC.
- The Nukuj Ajpop Mayan front (experimental people's government), whose support for the FDNG was in keeping with its principles of "Mayan democracy, respect for diversity in order to build unity; community honour and work as the characteristics of our activities; defending the voice of our people above and beyond that of our individual expression and being in solidarity with all sectors of Guatemalan society."

The FDNG's electoral success, relative to how recently it had formed, undoubtedly stemmed from two factors. (1) The systematic grassroots work of the popular human rights organizations;[125] (2) The views of many citizens on the suitability of opening up a political space for the participation and political influence of the left; (3) the electoral participation of Indian organizations and (4) the existence of a political environment more favourable to the participation of a historically repressed political tendency.[126]

The division of seats in Congress after the elections is as follows: PAN (43), FRG (21), FDNG (6), DC (4), UCN (3), UD (2) and MLN (1). Various observers, including former president De León Carpio, believe that participation by FDNG is leading the way to the definitive incorporation of the URNG into the political party system. It is also felt that if the URNG were to democratize its ranks, it could turn into a broad opposition front in a position to pressure the new government to implement the policies set out in the peace accords.[127] Nineth Montenegro, elected to Congress for the central district, noted that the FDNG caucus will implement a legislative agenda with four priorities: measures against impunity, measures against militarization, reforms of the political participation system and "specific policies to combat poverty."[128]

In January 1996, in an electoral run-off, the PAN's presidential candidate Alvaro Arzú beat his FRG opponent, former Christian Democratic legislator Alfonso Portillo, by 2.4% (32,000) of the valid votes. Arzú lost in 18 of 22 departments and his victory owed itself primarily to his sweep of the capital. Overall abstention exceeded 60% and in various western departments, it attained 75%. The PAN also won more than 140 mayoralties and 43 of 80 seats in Congress.

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125 The winning FDNG candidates were José Antonio Móvil and Rosalina Tuyuc (CONAVIGUA), for the national list; Nineth Montenegro (GAM) for the central district; Manuela Alvarado López (Indian leader) for Quezaltenango; Carlos Alfonso Barrios for San Marcos and Amilcar Méndez Urizar (CERJ) for Quiché. One of the mayoralty races won by the FDNG was in Colotenango, Huehuetenango, a town where in a well-publicized 1993 incident, a demonstration organized by CONAVIGUA and the CUC was repressed, leaving one peasant leader dead.

126 Of the parties, the FDNG was particularly active among political parties in reporting electoral irregularities and deficiencies, such as the inaccessibility of some polling stations to the rural population; boycotts in the countryside (blackouts in parts, punctured tires, etc.) and threats. Nineth Montenegro stated in Crónica (17/11/95) that "the first 105 days of the Front have been marked by the death of Manuel Saquic and the kidnapping of two others, who were released alive. We've also received death threats... there have been attacks and gunfire in some areas where we were participating."

127 The political scientist Miguel Angel Balcárcel stated in Siglo XXI (25/11/95) that with the FDNG, "a new political actor had appeared on the scene" whose role it would be to do now what it had not achieved previously: "to become a broad-based coalition." Interviews with various Front members revealed that it is entering a phase of internal democratization and analysis of the experience to avoid repeating the selective errors of the past.

128 Interview in *Crónica*, no. 402, November. 17, 1995.

The electoral campaign of both candidates ostensibly centred on discussion of their platforms, but these were rather weak given the complexity of the nation's social problems. During the campaign, the PAN was at pains to demonstrate its political management capability as well as its intention to equip the new government with a body of competent technicians and professionals to fulfil its primary commitment to modernize the state (decentralization, fiscal transparency and civilianization). This party took power with the basic support of various powerful economic and military groups, giving it the stability to set the process of governability in motion, something which De León Carpio had attempted with great difficulty.

In president Arzú's first few days of tenure, measures were announced that raised expectations of an effective struggle against impunity. The Interior Ministry set out as a priority the restructuring and professionalization of the National Police and proceeded to replace individuals considered corrupt. The new governing officials have also stated the need to unify the various police forces into a single body devoted to public security, and spoke of the advisability of the army's role being limited to that of the of defence of national sovereignty.

It is true that this government's agenda is in large measure determined by the inconclusive dynamics set in motion by De León Carpio: to make good on commitments to international financial organizations, address international pressure to sustain the peace process and continue implementing specific measures related to state decentralization. It is also true that the close cooperation and shared interests with the modernizing private sector may cause certain tensions with the union and popular organizations which are demanding a larger say in government and that the private sector give up some of its privileges in the post-war period.

In any case, a significant fact is that the next government will have to take up the overarching challenge of ending the war. This commitment is subject to monitoring by international organizations, which, given the torpid pace of implementation of the already approved accords, will have to identify more precisely the political obstacles preventing institutions and officials from fulfilling their commitments to make profound changes to government. The substance of the accords will impose reforms in the historically untouchable areas of taxation and landownership, but also to provisions that will oblige the government to make changes at all levels, including military, ethnic and judicial.

Political relationships and tensions arising during the next period of government will reflect the reduced power of the conservative economic and military sectors. This will demonstrate to what extent the new government is able to grant space for new political actors and make the reforms called for in the interests of long-term governability. Guatemala needs a government that is tolerant, committed to transparent management of policies and resources and able to bring together disparate sectors in a broad societal consensus that can provide the basic stability needed to carry out the tasks of reconstruction.

New Relationships Between Civil Society and the State

This chapter offers a general description of the power relationships among five social actors in Guatemala: the union and popular movement, the Mayan movement, the women's movement, the human rights organizations and the development NGOs.

By "power relationships", we mean the interaction between the state and these social actors, in which the former demonstrates the extent to which it is willing to meet the latter's demands, and the social actors show to what extent they are able to appropriate effective means of influence. Our conception of a "movement" is a force for social change that cultivates far-ranging expression regarding shared problems and promotes unity and concerted action to combat their causes.

The aforementioned actors are not equally experienced in dealing with the government, nor are their movements equally consolidated. In tracing the broad outlines of their recent history, their current demands and the status of their rights, our intent is to offer a panoramic view of how the social fabric is being rewoven. We also elucidate the principal dynamics governing the scope of operations of the organizations, both in their interactions among themselves and in their contacts with and distance from the Guatemalan government.

Part One: The Union and Popular Movement

FREEDOM OF ASSOCIATION AND THE RIGHT TO ORGANIZE

Freedom of association is enshrined in Guatemala's Constitution (art. 34). The constitution also governs the freedom to organize (art. 102). Guatemala has ratified ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize and Convention 98 (on the right to unionize and to collective bargaining). In the Comprehensive Agreement on Human Rights, the parties agreed to respect freedom of association. In particular, the government reiterated its commitment to "effectively guarantee and protect the work of individuals and entities dedicated to the defence of human rights."[129]

129 (Comprehensive Agreement on Human Rights, Sections 5 and 7.

On October 6, 1993, the government promulgated a decree to expedite the recognition and registration of associations,[130] which has had positive results in practice primarily because it alleviates bureaucratic delays. However, most popular organizations have not begun the registration procedure, the main reason being their distrust of the Interior Ministry and hence their unwillingness to provide it with their members' names. The situation is exacerbated by the general climate of insecurity that has affected these groups' freedom of expression.

The procedure improved considerably when the trade union registration process was transferred from the President's office to the Ministry of Labour in 1992. Still, it must be noted that of the new unions recognized in the last five years, only 15% have been unions in the private sector while the remainder have been non-affiliated with larger unions or in the public sector.[131] There are still examples of snags in the process. This is primarily because, despite the aforementioned reforms, the application procedures still need to be streamlined. Still, in many cases the applicant organizations do not respond promptly after being notified that their application is incomplete. In Guatemala, the tradition of legal incorporation is poorly established, because it is still not seen as a necessity for legal proceedings (whether criminal, civil or another type) and for obtaining the legal status necessary to avail themselves of mechanisms prescribed in the Labour Code (for example, the right to strike and to sign a collective agreement).

The percentage of unionized labour is very low. Only 3% of the economically active population (EAP) is unionized, a proportion that has remained basically unchanged from a decade ago.[132] This trend may be attributed primarily to stagnating industrial investment, constant repression of unions, intimidation by employers and the weakness of labour law in terms of both institutions and instruments. Nevertheless, it is important to note that this unionization data does not include *organizaciones solidaristas*, business-sponsored labour groupings giving workers a small number of shares in the company. These latter boast a membership of 120,000.

Traditionally, labour rights have been without legal protection. It was only in 1985, with coming into force of the new Constitution, that public sector and agricultural unions were legalized and the right to strike was enshrined. Under pressure from the US government and the unions, the Labour Code had to be revised to expand and consolidate the protection of this right, especially as regards job security and effective enforcement of collective agreements.

After the Labour Code reforms were instituted in 1992, for example, tribunals were supposed to be created in each sector to resolve conflicts involving collective bargaining and freedom of association. However, it was not until August of 1994, when the United States threatened to revoke Guatemala's privileges under the General System of Preferences, that the first tribunal was created in an abrupt act that involved converting a holding area into a labour tribunal.

The PDH characterized the status of labour rights as of 1994 as alarming:[133]

- Only 30% of the EAP is covered by social security, down from 35.9% in 1980;[134]
- There are only 108 labour inspectors enforcing labour laws for the whole country;
- Only 5000 companies file reports with the Ministry of Labour as required;

130 Acuerdo Gubernativo 515-93.

131 Human Rights Ombudsman. 1994. *Informe Circunstanciado de Actividades sobre la Situacion de Derechos Humanos durante 1994*. Guatemala, p. 29.

132 *Boletin de Estadisticas de Trabajo*, no. 4, 1992, Ministry of Labour, p. 54.

133 Human Rights Ombudsman, *Informe Circunstanciado*, pp. 28-29.

134 Ibid., p. 39.

- The labour tribunals resolve 20% of cases and rulings are excessively delayed; on August 3, 1994, there were only seven such tribunals for the entire country;[135]
- There are two conciliation and arbitration tribunals for the entire country located in the capital, whereas the law provides for one in each labour tribunal.

Mónica Pinto, the UN's independent expert, wrote in her last report that "In some sectors attempts are made to discourage workers from exercising trade union rights by means of mass dismissals."[136]

The labour situation is even more dire in rural areas, where the minimum wage (Q14.50 as of October 20, 1994) is not systematically paid.[137] According to Ministry of Labour estimates provided to the independent expert, "about 95 per cent of the minimum wage is paid in the southern coastal region and 70 per cent in San Marcos, while in the north, the extent to which employers fail to comply with the minimum wage is alarming. To a certain degree, these acts of non-compliance, which are rarely prosecuted in a timely manner, have provoked many occupations of farms.[138]

The conclusion of the Inter-American Commission on Human Rights (IACHR) is harsher still: "Guatemalan labour laws are flagrantly violated particularly in rural zones where there are no effective agencies, either administrative or judicial, to facilitate the peaceful settlement of disputes."[139] A typical illustration of this problem occurred on August 24 at the San Juan del Horizonte (La Exacta) estate in Quezaltenango. During a labour dispute in which the workers were demanding legally required payments including the minimum wage, three peasants were murdered when the police intervened.

The IACHR also noted that conditions "in some zones, particularly on cotton fincas (...) are worse than in any other OAS member country," especially for the 200,000-300,000 seasonal labourers who migrate to the coast with their families during the harvest. This is not the case in sugar mills, where conditions appear to have improved.[140]

The relative insecurity of labour and popular activists was recently documented by MINUGUA, whose second report (covering February 21-May 21) concluded that there was increased freedom of association given the absence of reports of extrajudicial killings or kidnappings of unionists. However, it also observed:

> other violations of the rights of persons attempting to organize themselves into trade unions or take actions in defence of their labour interests, including threats to leaders, dismissals and reprisals against workers who denounce adverse situations, and the lack of protection from the courts in cases relating to their rights.[141]

135 United Nations Commission on Human Rights. *Report by the independent expert, Mrs. Mónica Pinto, on the Situation of Human rights in Guatemala, Prepared in Accordance with Commission Resolution 1994/58.* E/CN.4/1995/15, December 20, 1994, par. 146.

136 Ibid., par. 149.

137 Equivalent to approximately US$2.50

138 Ibid., para 148.

139 Inter-American Commission on Human Rights. 1994. *Annual Report*, p. 188.

140 Ibid.

141 *Second Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala*, August 1995, p. 16.

It is worth mentioning that the section on freedom of association in the Comprehensive Agreement on Human Rights had more to do with the problem of the PACs. MINUGUA points out in its first two reports "the persistence of a type of intimidating discourse by soldiers, military commissioners and members of the civil patrols, which identifies the work of promoting and protecting human rights with subversive activities".[142] Popular groups such as CONAVIGUA, CUC, CERJ, GAM and the Defensoría Maya are among those most affected by these problems.

RADICAL REACTIONS TO ALARMING VIOLATIONS

In light of the above discussion of long-standing violations of the right to organize, it is understandable that no mechanisms have developed in Guatemala to provide for effective public political participation and socio-economic conflict resolution. This void strongly conditioned the development of a segment of the Guatemalan union and popular movement aligned with the revolutionary left[143] which acted as the political opposition although it never became an official party.

With the resurgence of military activity by the revolutionary organizations during the 1970s; heightened popular expectations of achieving a military victory in Guatemala similar to that of the Nicaraguan Sandinistas; and a severe decline in living standards and public security, this segment of the popular movement underwent a process of political radicalization. Organizations typical of this current included the Comité Nacional de Unidad Sindical (CNUS), an independent labour front; CUC, AEU, the Frente Nacional Magisterial, the Frente de Trabajadores de la Cultura and the Frente Democrático Contra la Represión.[144] The radicalization could be discerned in the changing political discourse, as labour demands gave way to anti-military slogans calling for the overthrow of the government. Further evidence of this phenomenon was the incorporation of many grassroots activists into the ranks of the revolutionary organizations.[145]

Through this radicalization process, leaders, union organizers and popular activists gained a clear perception of the Guatemalan government's counterinsurgency orientation, as well as its exclusive identification with the army. The abuse of power by the armed forces and persistent repression against union and popular leadership wiped out what little hope remained for addressing social demands through legal channels and negotiation. The privileges granted to big business also served to justify the interpretation that the entire government apparatus was being manipulated by military and business cabals. These realizations drew interest away from the demands of the early 1970s regarding respect for the law and civil rights, and virtually forced action towards ideological alternatives geared toward the revolutionary transformation of the whole society by toppling the power elites.

During the latter half of the 1970s, the government became the enemy of organized workers. A vicious cycle set in, the popular reaction being matched by the violence of the counterinsurgency. Popular organizations burgeoned with the influx of a new generation of young people and urban workers who recognized the urgency of fighting the army, which during those years was seen as responsible for obliterating the gains of the revolutionary period of 1945-1954.

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142 Ibid., p. 24, par. 120.

143 The union and popular movement is defined as the set of organizations defending the principal demands and rights of the different sectors of the population (trade unionists, peasants, teachers, students, etc.), including political party aligned groupings. In Guatemala, the political party with the closest historical ties to the popular organizations has been the DC.

144 The Frente Popular 31 de Enero, founded in 1980, called for the self-defense of the masses.

145 Shelton Davis, summarizing an OXFAM America study relating to this issue, wrote that "Indians began joining with the guerrilla organizations not because of a deep ideological understanding of or commitment to their cause but rather as a means of individual and community defense against the selective killings and acts of terror by the army and the death squads. In response to the Indian mobilization, the army stepped up its counterinsurgency efforts in the highlands." Davis, S. 1988. "Introduction: Sowing the Seeds of Violence." In: Carmack, R., ed. 1991. Harvest of Violence. Norman: University of Oklahoma Press. p. 23.

In the 1980s, the military dynamic of the armed conflict in Guatemala became so tense that society as a whole was affected, as it was by the extreme political confrontation between the military governments and their organized critics and opponents. These were the years in which the highest rates of human rights violations, including kidnappings, murders and massacres, were being reported.[146] The most militant popular organizations were broken up, and even Christian Democrat-aligned trade unionists were persecuted. Repression was the main cause of the low profile and fragile organization of the population in the early 1980s.

It was not until 1988, with the inception of the Unidad de Acción Sindical Popular (UASP), that a process of reorganization began, bringing with it new demands and methods of struggle that called for a reconsideration of perceptions of government. But this was not a systematic overhaul. The new popular organizations overlaid their demands for the respect of human rights onto their old methods of struggle,[147] without addressing the malfunctioning justice system or re-evaluating their concepts of nation and state. Thus, they enter a new political phase with a weakened capacity for advocacy and an ad hoc style of action. Nevertheless, these organizations did set themselves up as the force most active in decrying the army's abuse of power, protesting the creation of the PACs and laying bare the militarization of society.

THE NEW UNION AND POPULAR FRONT

The Unidad de Acción Sindical y Popular (UASP) has become the central forum in which the popular movement's interpretations and positions on national developments are debated. According to UNSITRAGUA member Byron Morales, UASP is "the driving force and the brains of that part of the union and popular movement which is most militant and committed to the democratic transformation of the country." [148]

At first, UASP was composed of the independent UNSITRAGUA, the Social Democrat-aligned Confederación de Unidad Sindical (CUSG) and the Christian Democrat-aligned Confederación General de Trabajadores (CGTG) union federations. With the withdrawal of the latter two, UASP became a locus of a more unified expression of the democratic views of the popular organizations, which tended to differ from those of the traditional political parties.[149] According to Morales:

> The central focus of its struggle is peace, to which may be added the struggles for social justice, human rights and democracy. UASP is struggling for a real and definitive peace, not for a mere cease-fire agreement; it calls for laying solid, deep-rooted political foundations on which to base the solutions to national problems.[150]

146 See Americas Watch and Amnesty International reports.

147 These included high capacity for denunciation; firm opposition to any sign of militarization in society; deep-rooted anti-government sentiment; severe loss of organizational capacity, resulting in a broad gulf between the leaders' discourse and the needs of the grassroots; a tradition of secrecy and clandestinity enveloping the organizational work so as to stave off intimidation and direct repression; advanced organizational fragmentation; distrust of society and government and high motivation to seek punishment for the perpetrators of human rights violations.

148 Interview, May 14, 1994.

149 The current members of UASP are AEU, CUC, FESOC, SITRABANVI, UNSITRAGUA, FENASTEG and UTQ (all these are members of the permanent executive committee), ANEEM, CEEM, CERJ, CONAVIGUA, CONDEG, CONIC, Comité de Vecinos de Chinautla, Comité de Vecinos de Ciudad Quetzal y colonias aldañas, CPR, GAM, ANTSP, STEG, SITRASS, STINDE, SITRADIGESA, CONAMPRO, UASP Suchitepéquez, UATRAP, UTE, UTESP, ANMG, FESINTROP, CCDA, UNICAN, STRAC, Sindicato de Telégrafos.

150 Interview with Morales, May 14, 1994.

From its inception, UASP became the most militant organization in favour of opening and maintaining spaces for struggle under civilian governments and, in particular, those related to social policy.[151] However, some analysts have noted UASP's limitations and errors during its early years. An analysis by AVANCSO and IDESAC of UASP's 1988 campaign against electricity rate hikes pointed out that:

> At that time they managed to organize the largest popular demonstrations held since 1980. These demonstrations forced the Cerezo government to negotiate a set of economic policy measures, the results of which were embodied in the March 8 agreements of that year. However, miscalculation by the leadership and inadequate communication with the grassroots quickly wore down these lobbying tactics. This was seized upon by the government as an excuse to renege on the agreements, blaming their hardened position on the militant actions of the unionists.[152]

Moreover, the study noted that:

> In August 1988, UASP declared a general strike throughout the country. This decision was taken by the leadership without consulting its base of support. The strike was undertaken in hopes of gaining a quick victory, of forcing the government to roll back provisions that were affecting the cost of living. It was over within a week.[153]

Susanne Jonas, a US scholar, commented more positively on the strike, stating that it was "a surprising show of force and an important experience in building the movement."[154]

Another very critical analysis of the movement at the close of the 1980s pointed up the following features:

> Endurance of outdated methods and political conceptions such as sectarianism, spontaneity and high-level manoeuvring. Furthermore, past experiences have not been sufficiently and collectively analyzed, nor have the lessons been learned. The cycle of struggle has resumed, but it is based on old foundations... The fundamental contradiction is that the union and popular movement regroups but does not renew itself...[155]

This analysis differs little from a comment made by Nineth Montenegro of GAM stating that a break with "atavisms and bonds" is necessary if the popular movement is to make alliances with other sectors. Montenegro states:

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151 New popular organizations joining UASP include a coalition of group that have emerged from repression and impunity made up of GAM, CONAVIGUA, CERJ, CPR and CONDEG. In general, these organizations are political pressure groups supporting the demilitarization of society.

152 *ONGs, Sociedad Civil y Estado en Guatemala: elementos para el debate*, AVANCSO/IDESAC, Guatemala, March 1990, p. 17.

153 Ibid.

154 Susanne Jonas. 1994. *The Battle for Guatemala*. Boulder, Co.: Westview Press, p. 182.

155 Gilberto Castañeda Sandoval, "Panorama Después de la Tempestad: El Movimiento Sindical y Popular Guatemalteco en la década de los Ochenta." In: Carlos M. Vilas, ed. 1993. *Democracia Emergente en Centroamérica*. México: UNAM. This author also notes that disunity among the revolutionaries exacerbated the problems of the union and popular movement. He refers mainly to the internal splits in the EGP and the PGT politburo in 1984 and the appearance of dissident groups such as Octubre Revolucionario (EGP dissident) and PGT-6 de Enero. The dissident groups sought "a fundamental rethinking of the type of revolutionary organization required as regards its relationship with the masses."

Another analysis written in 1992 reaches a similar conclusion: "a pyramidal tendency with centralization of power at the top and relatively little consultation with the bases, particularly when developing proposals." Victor Gálvez, "Estado, Participación Popular y Democratización." In: *Estado, Participación Popular y Democratización*. 1988. Guatemala: FLACSO, p. 37.

Susanne Jonas, who is much more optimistic about UASP's development in recent years, also shares some criticisms: "Despite major overall advances, continuing problems of unity and new divisions fomented by co-optive strategies such as *solidarismo* in the labor movement...insufficient experienced leadership or cadre, as a result of the years of repression..." Jonas, p. 186.

> I see an incipient, disarticulated and demobilized civil society which, due to the lasting effects of terror, is incapable of taking up the challenges of post-war Guatemala. The main factor that has prevented civil society from having political weight is the extremely brutal repression, because it has immobilized the population. Another factor is the diversity of cultures, which implies a diversity of interests. Internal factionalism is another factor in the weakness of civil society: each group holds onto its little bit of territory. This has prevented us from seeing the general interest and building a broad social base to meet the challenges of the next millennium.[156]

These aspects of UASP's political behavior have limited its impact in terms of coordinating action with other civil society groups, building its own base of support and hence guaranteeing its effective influence on public policy. Still, it has been the only organized front to maintain a degree of vigilance regarding government decisions related to the implementation of structural adjustment policies. Member unions of UASP have conducted studies on the effects of *maquiladoras* (final-touch assembly or finishing plants) in Guatemala and waged internationally backed campaigns calling on the government to fulfil its obligation to guarantee respect for labour rights and the freedom to unionize. The most relevant case has been the impact on commercial relations with the United States in the context of the General System of Preferences, under which a beneficiary state must make a strict commitment to respect labour rights. The US government has paid attention to the unions' demands and threatened the Guatemalan government with restricting its export privileges if violations recur.

UASP has also been directly involved in coordinating actions against privatization. However, its stance continues to be fundamentally reactive, confrontational and radical. Its uncategorical rejection of privatization has not been accompanied by proposals relating to tax reform, foreign debt agreements or lobbying international financial organizations. Nor has it made any specific suggestions regarding corruption, decentralization and transparent management of public funds. Its platform of demands is still dictated by short-term concerns. It is not part of a global national and social strategy that encompasses negotiations with all agents involved in the country's socio-economic future. In the end, these defects tend to trigger a reaction from the private sector and government officials, who renew their long-standing recalcitrance. This is unjustifiable on their part. Still, this analysis serves to explain the torpid pace of democratization, liberalization and acceptance of a culture of dialogue in the exercise of economic and social rights.

THE PEACE PROCESS AND PUBLIC PARTICIPATION

With the gradually widening political space created by Esquipulas II in 1987 and the opening of negotiations between the URNG and the government in 1991, the popular organizations entered a new and still-persisting context of inter- and intra-sector political relations.

The Coordinadora de Sectores Civiles (CSC) was founded in 1991 in response to a proposal from the Confederación de Religiosos de Guatemala (CONFREGUA) to keep up the cross-sector dialogue on peace-related issues. The group that met with the URNG in Metepec (popular and union organizations) constituted one caucus within the CSC, while the other three were the religious sector, the NGOs and the Mayan groups. Other sectors were also represented, but they consisted of fewer organizations (for example, not all UASP members participated) and the public statements differed little from those of UASP.[157] Another group that formed in this period was the

156 Interview with Nineth Montenegro by Mario Roberto Morales, Crónica, August 19, 1994, pp. 27-28.

157 The study by Víctor Gálvez emphasizes CSC's role more than that of UASP given the former's importance in peace issues. However, this ignores the fact that the CSC is the creation of just a few groups, and lacks an organic structure like that of UASP.

Coordinadora Civil por la Paz (COCIPAZ), made up of cooperatives, professional associations, small entrepreneurs, unions such as the CGTG, and the USAC. In recent years, the two coalitions have made joint statements with some frequency.

The Guatemalan popular movement's involvement in the peace process is accompanied by skepticism that civilian government and the end of the armed conflict will resolve the historical and structural problems of oppression, repression and economic injustice affecting the majority of Guatemalans, particularly the largely Mayan rural poor. For example, Amilcar Méndez of CERJ states:

> In the Nicaraguan and El Salvadoran peace processes, the causes of the war were never removed. They are still there. So something much more effective has to be done in Guatemala... We don't want to end up with paper commitments or a mere end to exploding bombs and bullets. We want an end to the structure of social injustice that reigns in Guatemala.[157]

From 1994 on, with the start of the political negotiation phase moderated by the United Nations, many UASP member organizations became active in publicizing the signed agreements. By means of workshops, courses, campaigns and the publication of educational material, these organizations helped inform the rural population about the peace process.

This work was done much more assiduously than by the government, and in a context in which it is still dangerous to do human rights education. The presence of MINUGUA gave these groups a degree of assurance, and allowed them to coordinate publicity for the Comprehensive Agreement on Human Rights. One of the most positive effects of the work of the popular organizations has been to give the public more confidence to report violations.

Simultaneously, the sectors that formed as a result of the repression (*sectores surgidos*), which include the organizations representing returnees and internal refugees, have been increasing their organizational capacity. The organizations of the uprooted population have contributed to rebuilding the social fabric in the communities most affected by the war. They have supported the implementation of those aspects of the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict that are already in effect. They have implemented community development projects and promoted actions to contain potential abuses by the security forces and the guerrillas.

It is in the overall political strategy regarding the peace process where, once again, one can observe a degree of resistance to renewing the tradition of political struggle. The UASP still lacks a game plan for the post-war era. It has no strategies for reconciling its labour demands with its proposals for democratization and implementation of the accords. Various UASP leaders and member organizations agreed to participate in a political party (see above) in the 1995 general elections without delegating to other activists the tasks and responsibilities acquired through the peace process and the ASC. Regardless of the impact of their electoral participation, the neglect of their role vis-a-vis the peace negotiations was notable, confirming the persistence of a centralized, ad hoc approach.

Since 1994, the popular organizations have been going through a complex phase, in which building their influence requires greater efforts on their part than in past decades (especially the 1970s). At that time, they were not obliged to rebuild their bases of support from the ground up, nor to cope with a society suffering psychologically under the severe effects of terror and war.

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158 Interview, June 22, 1994. Victor Gudiel of AEU echoed these remarks as follows: "... the result is undoubtedly going to be that peace will be achieved on a strong foundation, not a highly questionable peace like in El Salvador where the only achievements were in the area of increased opportunities for political participation, but no solution was found to the problems plaguing the population." Interview, July, 1994.

Today, the various labour demands must share an agenda with the imperatives of reorganization and peace in a context that urgently demands new leaders and a higher level of skills and professionalism for popular political action, given that the peace accords are essentially guidelines for the transformation of the state.

The difficulties experienced by the popular movement in defining its new political profile are explained by its attempts to harmonize antiquated practices of popular struggle with new social demands. A further complication is the constraints imposed by a political period in which a democratizing discourse is gaining credence, yet impunity remains substantially unaffected. The movement's greatest weakness is the inconsistency of its position on the state, which it continues to equate with the executive branch and the urban context.

An example of the movement's lack of clarity can be seen in the stance it adopted on the Truth Commission. At first, all popular organizations sharply criticized the Truth Commission Agreement reached in June 1994, in particular for creating a commission that is not bound to attach responsibility to or name those who fomented and perpetrated human rights violations. However, the attitude toward the Agreement soon showed signs of change; Nineth Montenegro of GAM, for example, termed it "the best that could be reached" and "nobody's failure." [159] Now, member organizations of the human rights umbrella group Coordinadora Nacional de Derechos Humanos de Guatemala (CONADEHGUA) are making an effort to use the opportunities created by the Agreement to prepare testimonials and other information useful to the Commission.

Another example of this lack of political clarity is the discourse prevailing in 1994 within the popular movement around the need for a national constituent assembly to approve the constitutional reforms in accordance with one item on the substantive agenda of the negotiations.[160] The idea circulating within the popular movement is that it could hold a privileged position within such an assembly, which ignored the improbability of such a body being constituted without the hegemonic participation of the mainline political parties and failed to take into consideration the applicable legislation.[161] Discussion of the issue of constitutional reforms and the electoral system within the ASC put into relief the popular movement's limited experience in exercising its political rights, and limited understanding of the relationship between these rights and the government and political institutions. Thus, many popular leaders alluded to the importance of political liberties as such, but very few spoke of the relationships among political party organization, electoral participation, control over government and strengthening civil society with respect to a centralized state.

Nevertheless, 1994 witnessed the birth of an unprecedented process of experiences for the popular movement which could be seized upon in order to improve its current level of influence and better achieve its goals. Their participation in the ASC has given many popular organizations access to previously unavailable, first-hand knowledge of the game of politics. They have increased their understanding of how to take coordinated action. They have better understood the changes that have occurred in Guatemala and new actions deriving from them. The tone of their discourse has shifted away from its confrontational emphasis and they have improved their negotiating skills.

159 "La Guatemala de la Posguerra," interview with Nineth Montenegro, *Crónica*, August 19, 1994, pp. 27-28.

160 Interviews with Amilcar Méndez of CERU and Victor Gudiel of AEU (see also next footnote). The latter stated that "[the parties] are [spearheading] the search for agreement on the possibility of mounting a constitutional reform process with broad participation, not limited to 50 representatives of the political parties or to a little over 100, which really doesn't meet the demands of the Guatemalan people."

161 Amilcar Méndez: "...indeed, the national constituent assembly is going to be the forum in which the voice of the Mayan people, the voice of the representatives of the popular movement, is heard, because they are going to air their proposals there..." Interview, June 22, 1994.

This idea of the popular movement being in a privileged position becomes even clearer in an interview with the AEU: "...[prior to] establishing a national constituent assembly,... [there must be] a reform of the Law of Elections and Political Parties... so that in setting up this assembly, the participation of *the legitimate representatives of the Guatemalan people is recognized* [italics added for emphasis]."

It can at least be said that there is thinking being done about how to overcome the sectarian positions taken in the ASC, the technical constraints on the move from confrontation to advocacy, and the forms of struggle appropriate for the post-war period. The extent to which the union and popular movement will be able to enhance its impact without giving up its democratic ideology will also depend on the existence of stable conditions of respect for human rights, especially in rural areas still under military control. But it will also depend on the removal of the limitations on public political participation in order to create an environment of respect and tolerance for political opposition in Guatemala.

Part Two: The Mayan Movement

THE ETHNIC MAKE-UP OF GUATEMALAN SOCIETY

Historically, Guatemalan analyses of social statistics have routinely ignored the variable of ethnicity. As a rule, demographic information merely distinguishes between Indians and Ladinos, without systematic ethnicity criteria. To make matters worse, researchers are usually unqualified to identify ethnicity on the basis of indicators other than attire.[162]

In the last five years, a new type of analysis has emerged. With the support of UNDP, UNICEF and other international cooperation agencies, work has begun on systematizing and interpreting Guatemalan society from an Indian perspective. The data used here originate from sources of this nature.

"In Guatemala," notes one Mayan scholar who was the Education Minister in the De León Carpio governmet, "there are four defined peoples: the Maya, of Indian origin; the Mestizo, of Indo-European roots; the Garífona, of African and Caribbean origin, and the Xinca, of Pipile origin. The Mayan people are in turn subdivided into 30 ethnic communities. 22 of which reside within Guatemalan jurisdiction. These communities are also referred to as nationalities or ethnic groups, as defined by having their own language." [163]

According to the Mayan publishers' council Cholsamaj, 60% of Guatemalans are of Mayan origin, 1% are of Xinca or Garífuna origin and 39% make up the Ladino population. The majority of the Mayan habitants live in rural areas under an administrative system of departments that was imposed on their linguistic communities without regard for their historical geographic distribution.

A total of 23 languages, including 20 Mayan languages plus Spanish, Xinca and Garífona, are spoken. The number of native Spanish speakers (mainly Ladinos) is estimated at 3.8 million. Native speakers of Xinca and Garífona number 297 and 6,000, respectively. Of the Mayan languages, Kíchee' has the most native speakers (1.8 million), who live in the departments of Sololá, Totonicapán, Quezaltenango, Baja Verapaz, Quiché, Suchitepequez and Retalhuleu. The Mam community (1.0 million speakers) is centred in municipalities in the departments of Quezaltenango, San Marcos and Huehuetenango. It is followed by the Kaqchikel community (1.0 million speakers) in Guatemala, Sacatepéquez, Chimaltenango, Escuintla, Sololá, Suchitepequez

162 In an official document entitled "Programa Prioritario de Inversión Social" produced by the government planning agency SEGEPLAN and the Ministry of Finance and submitted as a report to the Grupo Consultivo (June 1994) to solicit financing for the reconstruction process, none of the tables of basic social indicators present specific figures on Indian status, despite the fact that this is the population most affected by the internal armed conflict.

163 Tay Coyoy, A. *Análisis de situación de la educación maya en Guatemala*. Guatemala: UNICEF/MINISTRY OF EDUCACION, April 1994.

and Baja Verapaz; and the Q'eqchi' (712,000 inhabitants), distributed among the departments of Quiché, Alta Verapaz, El Petén and Izabal.[164]

In addition to socio-economic stratification characterized by markedly unequal distribution of property and resources, Guatemalan society functions on a basis of equally stratified ethnic relations. The Mayan social, linguistic, cultural, economic and political institutions are subordinated to those of the Ladinos.[165]

According to Demetrio Cojtí Cuxil, Ladino domination over the Mayan communities is evident in the fact that:

- The official language is Spanish and the national culture is that of the Ladinos;
- The Mayan communities are both linguistically and territorially fragmented by the current political and administrative framework;
- The state apparatus (legislative, executive and judicial branches) is monopolized by the Ladino political class;
- The Mayan communities are oppressed, controlled, discriminated against and economically exploited.[166]

Mayan land tenure is characteristically small-scale, and the country's Indian majority owns a mere 20% of the country's arable land. In contrast, mainly Ladino or non-Indian large landowners comprising only 2% of the population own the remaining 80% of the arable land. Between 1950 and 1979, the number of Indian families with just enough land for subsistence increased by 40%, while the average size of their plots declined by 30%.[167]

Of the economically active population, 43.9% are Mayans. They work primarily on estates and/or in agroexport plants and in planting and harvesting basic grains and legumes for the domestic market. Although the depression of the 1980s had a direct negative effect on basic grain yields, the Mayan people still produce 60% of the corn crop, 42% of the bean crop and 31% of the rice crop. The proportions of these crops produced by migrant labour are 20%, 12% and 6%, respectively.[168]

In general, working and living conditions are at the subsistence level for the Mayan majority. Tay Coyoy lists poverty among the Mayans as one of the consequences of Guatemalan government policy. The trend has been upward, from 63% in 1980 to 77% in 1989. Extreme poverty rose from 32% to 55% over the same period, with particularly high concentrations in the departments with the highest percentages of Mayan inhabitants: Quiché, Huehuetenango, Alta and Baja Verapaz, San Marcos, Sololá, Totonicapán and Jalapa.[169]

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164 The remaining Mayan languages are Poqomchi (259,000 speakers in Alta Verapaz and Baja Verapaz), Tz'utujiil (156,000 speakers in Sololá and Suchitepéquez), Chuj (85,000 speakers in Huehuetenango), Ixil (131,000 speakers in Quiché), Poqomam (127,000 speakers in Guatemala, Jalapa and Escuintla), Popti' or Jakalteco (84,000 speakers in Huehuetenango), Ch'orti' (74,000 speakers in Zacapa and Chiquimula), Awakateko (34,000 speakers in Huehuetenango), Akateko (39,000 speakers in Huehuetenango), Uspanteko (21,000 speakers in the municipality of Uspantán, Quiché), Mopán (13,000 speakers in Petén), Itzaj (2000 speakers in Petén), Sakapulteco (42,000 speakers in the municipalities of Sacapulas, Quiché) and Sipakapense (6000 speakers in San Marcos). Source: Cholsamaj. 1994. *Kajlab'alil maya'iib'xuq mu'siib': Ri Ub'antajiik tzimuleew (Mayas y Ladinos en cifras: El caso de Guatemala)*. Guatemala, pp. 20-26.

165 Ibid.

166 Cojtí, D. 1994. *Políticas para la reivindicación de los mayas de hoy (Fundamento de los derechos específicos del Pueblo Maya)*. Guatemala: Cholsamaj, p. 14.

167 Gutiérrez, Edgar. "Un nuevo tejido social para Guatemala: dinámica maya en los años noventa." *Revista Polémica* no. 3. FLACSO, Guatemala, January-June 1995, p. 9.

168 Tay Coyoy, p. 19.

169 Ibid., p. 4.

The most alarming indicators of the status of the Mayan population include:[170]

Education:

- The curriculum, outreach, structure and organization of the formal education system are unsuited to the cultural realities of the Mayan people. Only 4% of the 1991 education budget was allocated to bilingual education (0.25% in 1984). Formal bilingual education is instituted in just 400 schools, and only until fourth grade.
- 70% of the Mayan population is illiterate.
- 67% of Mayans have no formal schooling, 92% have not attended middle school and 99% have not attended high school. In Guatemala, at most 2000 professionals with degrees from the national university (0.00033% of the total) are Mayans.[171]

Health:

- More Mayan children (41%) are malnourished than Ladino children (29%).
- The 1990 infant mortality rate for Indians was 87 per thousand live births.
- 80% of the Indian population has no potable water and over 2 million Indians lack proper sanitation.[172]

Resources:

- The Indian population lacks access to basic social, technological and productive resources.
- There are no socio-economic policies to support agricultural production or channel subsidies to small and medium-sized producers. Neither is there any policy on land or government-supported environmental, production or social development training.

Culture:

- The Indian population has no protection or guarantees of respect for its cosmovision, customs, the use of its attire and language, organization and approach to conflict resolution.

In her last report, UN Expert Mónica Pinto noted that she had found no indication that ratification of Convention 169 was imminent.[173] Neither did she observe the existence of the conditions required in order to develop ethnic legislation as required by article 70 of the Constitution. "This again leads to the conclusion that, while the law does not actually discriminate against the Indian majority, it does not protect them either, producing [a] situation of de facto discrimination..."[174]

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170 It is not our purpose in underscoring these indicators to obscure or deny the reality of thousands of poor Ladinos who live in socio-economic conditions similar to those of the majority of Mayans.

171 Tay Coyoy *Análisis de situación* and UNDP/PRODERE, *Elementos para un diagnóstico del desarrollo del pueblo maya.* Guatemala, 1995.

172 Ibid.

173 Op. cit., United Nations Commission on Human Rights, E/CN.4/1995/15, par. 75. According to Alfredo Cupil López and Virgilio Alvarado, Convention 169 of the International Labour Organization (ILO), regarding indigenous and tribal peoples in independent countries, recognizes the category of people with their own identity and collective rights, recognizes cultural differences, accepts and respects cultural values, indigenous practices and their own authorities, promotes programs with the participation, consultation and decision-making input of Indians, promotes customary law, establishes the need for native-language education in keeping with indigenous culture, history and identity, recognizes the right to determine development characteristics and plans defined by the Indians and the right to have "a special relationship with their land and territory." *Derecho Indígena/Sistema jurídico de los pueblos originarios de América.* Centro de Estudios de la Cultura Maya, Guatemala, May 1994, pp. 199-208.

174 United Nations Commission on Human Rights, E/CN.4/1995/15, par. 75.

The expert also observed that:

Under the prevailing Electoral Act, the Mayan people have no opportunity to organize politically. In this connection, the group leaders interviewed by the Expert recalled the experience of the Frente Indígena Nacional, which was set up in 1975 and was unable to register as a party because it was branded as racist, not to mention the persecution and attacks directed at its members. Moreover, the respect for Mayan culture provided for in article 66 of the Constitution has not been translated into legal acceptance of the procedures for electing these communities' own representatives.[175]

With the exception of some attention by the Ministry of Education to the problems of Indian education in recent years, the government's policy on the Indian (Mayan) population is to have no policy or legislation that guarantees respect for their rights.[176] Various Mayan organizations have termed this system "internal colonialism."

The anthropologist Jorge Solares observes that since the nature of this problem is rooted in interethnic inequity and inequality, it is insufficient to assess the status of Indian human rights from the outside. What is needed are studies on how the Indian communities themselves explain and understand violations of their rights. "Two types of violations of Indian rights may be identified in Guatemala: military and paramilitary. In the recent past, during the internal armed conflict, principles fundamental to human co-existence, such as respect for life and individual and community integrity, have been violently attacked." [177]

ROOTS OF THE MAYAN MOVEMENT

One of the most profound manifestations of the process of transformation of Guatemalan society and government is, without doubt, the emergence and growing influence of a broad-based Mayan political movement. With the start of the 1990s, various phenomena that were formerly taboo or clandestine, some for decades and others for centuries, have become visible, or at least, undeniable.

Three disparate factors have combined to produce specific, far-reaching changes within the Indian communities and their relationships with the groups making up the historically Ladino-dominated power structure. These factors are 1) the increasing monetarization of rural subsistence communities (1960 to date); 2) the internal armed conflict (1963 to date) and 3) international pressure to respect Indian rights and monitoring of progress in that area (1989 to date). In their most general sense, these three factors constitute the context within which Mayans are beginning to exercise their political independence.

The first of these circumstances, stemming from the opening of the internal market (with impetus from the Central American Common Market), expanded monetary relationships, accentuated the social differentiation of Indian communities, opened channels of social and cultural communication with the Ladino capitalist lifestyle and organization, and instigated acculturation processes which renewed Indian forms of resistance.

175 Ibid., par. 74.

176 Despite this lack of protection, Guatemala is bound by international standards protecting indigenous rights which it has ratified, such as *Convention on the Prevention and Punishment of the Crime of Genocide, International Convention on the Elimination of All Forms of Racial Discrimination, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Slavery Convention, and Supplementary Convention on the Abolition of Slavery.*

177 Solares, J. 1995. *Derechos Humanos desde la perspectiva indígena en Guatemala.* Debate No. 29. Guatemala: FLACSO, p. 9. Solares adds that "another secular, systematic and centuries-old pattern is that of exclusion, discrimination and racism which, as social and historical substrate to the abovementioned type, is cast upon the ethnic Indian majority by the dominant Ladino sectors."

At its origins, this dynamic took the form of minimal growth of municipal urban centres; empowerment of the Indian middle and upper-classes; the emergence of networks of catechists and evangelical promoters; increased activity of Indian religious brotherhoods and local governments, increased radio broadcasting coverage and access by road, better access to the school system and Spanish literacy programs; the emergence of peasant and cooperative associations; the creation of groups seeking to colonize or purchase land; token participation of Indian leaders in political parties; interest of the latter in attracting the Indian vote, and other phenomena. The confluence of these processes produced other changes in the conduct and conscience of the new Indian leaders and not a few families. These changes led to subdued yet growing criticism of the Ladino monopoly on political power and privilege in Guatemala. They also made it easier for the government and traditional institutions, especially the Catholic church and the political parties, to make contact with and coopt Indian sectors.[178]

These transformations did not go hand in hand with the creation of mechanisms for Indian representation and participation in local and national government. They did not address the Indians' marginalization and unequal enjoyment of rights, nor the lack of respect for their cultural identity. As a result, traditional local economies are weakening. Community cohesion is breaking down and being replaced by a weak, Ladinoizing and integrationist state apparatus that is incapable of channelling and responding to the emerging forces and demands. The result is an accentuation of relationships based on oppression and discrimination.[179]

In this context, there are three currents in the discourse on ethnicity. The first is assimilationist, tends to find its expression in folklorism, and is represented in particular by the work of Acción Católica, Pastoral Indígena and the Summer Institute of Linguistics.[180] The second is an indigenist tendency which began to appear around 1972 with the Seminarios Indígenas. These brought together teachers and promoters with an interest in reflecting on cultural identity, and resulted in the monthly *Ixim* which began publication in 1977. During its three years in existence, this journal directly addressed issues relating to the creation of an Indian consciousness.[181] This second current also led to meetings of Indians interested in standardizing their languages, particularly at the insistence of Adrián Inés Chávez, founder of the Maya-K'iche' Language Academy.[182] The third current, also indigenist, dating back to the early 1970s, included university scholars and students directly or indirectly involved with armed revolutionary organizations. Since these academics were mainly Ladinos, a debate coalesced around how the "Indian question" should be interpreted in Guatemala: from the viewpoint of ethnic and cultural identity or from a Marxist perspective of class struggle.[183]

These tendencies intertwine and converge in the succeeding political periods of greatest importance: elections, the 1976 earthquake, the internal armed conflict, the mass-scale repression, and so forth. In any event, it may be said that the powerful effects of money were decisive in removing traditional Indian resistance and generating more politicized forms of defence and self-knowledge.

178 Manz, Beatriz. *Cambios en la Comunidad, desplazamientos.* Iglesia Guatemalteca en el Exilio, Mexico, 1988.

179 Le Bot, Y. *Movimiento indio y poder Ladino.* Trace No. 13, CEMCA, Mexico, 1988.

180 Arias, A. "El movimiento indígena de Guatemala: 1970-1982." In: Manjivar y Camacho, et. al. 1985. *Movimientos Populares en Centroamérica.* Costa Rica: FLACSO/UNU/UNAM.

181 Bastos, S. and Camus M. *Quebrando el silencio,* p. 28.

182 Ibid., pp. 25-26.

183 This discourse was stimulated by Guzmán Bockler's and Herbert's *Guatemala: una interpretación histórico social* (Mexico: Siglo XXI, 1970) which dealt in particular with ethnic and cultural autonomy. Severo Martínez Peláez, in *La patria del criollo (Guatemala: Editorial Universitaria, 1971)* subordinated cultural identity to economics. His approach was to show how economic and political history had created the "Indian" and virtually forced him or her to assimilate to Ladino culture.

The Indians and the Guerrillas

The second factor — the internal armed conflict — is much more complex, not only in its implications, but also due to the still-remaining difficulty in Guatemala of addressing and systematizing this issue. The armed conflict directly and decisively affected the fate of the Indian population. The armed revolutionary movement emerged and gathered force primarily in the northern, northwestern and western parts of the country, where the Indian population predominates.

The guerrilla forces, initially made up of middle-class Ladino students and professionals, did not begin with a conception of or position on ethnic inequality. They virtually occupied Indian territory, convinced of the correctness of their Che Guevara-inspired *foco* theory, according to which the justice of a cause espoused by a small number of revolutionaries would be immediately evident to the popular sectors, the poor and the workers and would thus spark insurrection. The decision to take up the struggle would serve to create an armed movement capable of overthrowing the government and its main representative, the army. Like all guerrilla movements, the one in Guatemala depended for its survival on supplies and logistical support from the communities situated within its sphere of action. This arrangement gave the guerrillas first-hand knowledge of the Indians. In nearly all cases, the contact was non-violent, since the guerrillas' procedure was to interact through political education. It communicated with its nascent base within the ideological framework of class struggle, using an ideology that was a hybrid of Marxism and liberation theology. The latter strand subordinates ethnic and cultural oppression to a simple message of redemption for the poor.

In many Indian communities, the guerrillas became a source of power. They helped resolve conflicts, brought community leaders into their ranks, assisted in literacy campaigns, conducted political education, helped make organizational improvements, were called upon to participate in community activities, celebrated marriages and so on. Two objectives were central to their empathy with these populations: a) overthrowing an army seen as repressive, corrupt, the historical enemy of the people and an expropriator of land; and b) putting an end to poverty and abuse by large landowners, and distributing land to the landless.

As a result of internal discussions and of the debate on ethnicity and nationality taking place in the universities, from the mid-1970s onward the armed revolutionary movement, particularly the Ejército Guerrillero de los Pobres (EGP) and the Organización del Pueblo en Armas (ORPA), like the Partido Guatemalteco del Trabajo (PGT, the Communist Party) years before, incorporated an ethnic analysis of Guatemalan society into their discourse. An unprecedented new political space (not Indian *per se*) had opened up to confront the government on its complicity not only in the violence of exploitation, but also in the violence of racism and ethnic oppression.

In their writings, these organizations (especially the first two) recognized the urgent need to establish equality between Indians and Ladinos. In *Acerca del Racismo*, ORPA outlined a phenomenological analysis of the relationship between those who discriminate and the object of their discrimination: "Racism is possible and effective because it occurs in a situation of power and economic inequality. In the general structure of society, all power mechanisms, means of advancement and opportunities are blocked and usurped by the discriminators."[184] In *Los Pueblos Indígenas y la Revolución Guatemalteca*, the EGP argued that the subordination of Indian ethnic and cultural identity justified the creation of a multinational homeland within one country: "We believe that self-determination in general should be distinguished from the right to ethnic and cultural identity and the right to local political autonomy."[185] The section of the PGT political

184 Published in Agence latino-américaine d'information (ALAI), p. 3. Montreal, November 5, 1982.

185 Ibid., p. 13.

program entitled "The Indian Question" does not recognize cultural identity, but does observe that "discrimination is a resource of the dominant classes. These classes have developed it ideologically, sought justifications for it and taken advantage of all specific moments of a historical process to inculcate it deep into the popular mind." [186]

Nevertheless, neither the PGT nor the two guerrilla organizations linked their analyses to demands for reform or transformations sensitive to ethnic demands. Rather, they responded with fundamentally Bolshevik solutions involving the liberation of the workers and peasants from economic exploitation. Neither were their practices in keeping with the ethnic discourse. Most of the revolutionary positions of control and decision-making were occupied by Ladinos, while the Indians carried out mainly operational tasks. Moreover, Indian militancy and collaboration with the guerrilla movement came to be governed by military dictates, which are inevitably those of command and obedience. These dictates determined all revolutionary tactics, since with time, the armed struggle led to a state of counterinsurgency. In this way, the Indian population was targeted for repression by the state security apparatus and caught between two armies.[187]

Emerging from the interaction and mutual influence of the revolutionary groups and the community and municipal movements were Indian popular organizations such as the CUC, founded in 1978, with direct and indirect links to the guerrilla organizations. This was the starting point for another process of Indian political organization characterized by Indians uniting around social justice issues within an ideological framework that is a hybrid of Indian and Bolshevik thinking (i.e., the class struggle of the workers and peasants to take power). Almost simultaneously, a radical tendency of this latter school of thought came into being as the short-lived Movimiento Indio Tojil, which included a number of former Indian revolutionaries.[188]

Consequently, the revolutionary movement contributed to the formation of new forms of Indian political expression, primarily those relating to the struggle around popular demands. It also became the cradle of Indian dissidence regarding the handling of problems of oppression and cultural identity. But ideas aside, and whether it intended to or not, what the revolutionary movement generated was an internal armed conflict, which brought about a response from an army that employed devastating military strategies such as terror and ethnocide.

During the 1980s, the Indian communities suffered radical transformations. Indian community structure and civic movements that had formed over the preceding decade disintegrated. From the perspective of counterinsurgency, the Indian population was reduced to a strategic matter for state security. The logic went as follows: the Indians are the guerrillas' social base and must therefore be either deterred from helping them, controlled or even eliminated. The government, whose institutional structure had been practically absent from the areas of greatest Indian population, stepped up its presence as represented by the army. The areas of armed conflict grew militarized.[189] In the new political geography, ethnocide, exile and displacement exacerbated the virtual economic depression and worsening poverty.

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186 Ibid., p. 15.

187 David Stoll has analyzed the relationship between the guerrillas and the Ixil population as follows: "But the guerrillas had few weapons to give to their followers. Nor did fear of soldiers necessarily mean solid support for the revolution. Unlike smaller, more cautious revolutionary groups, the EGP organized entire communities into its ranks. Its mass organizing strategy destroyed the "neutral" middle ground where many Ixil Indians might have preferred to stay." "Evangelicals, Guerrillas and the Army: The Ixil Triangle Under Ríos Montt." In: R. Carmack, ed. 1991. *Harvest of Violence*. Norman: University of Oklahoma Press, p. 104.

188 "Thus, around 1980, they published the document *Guatemala: de la República Centralista a la República Popular Federal*, which, among the concepts of the day, was the first truly Indian position to be published in the country." Bastos S. and Camus M. *Quebrando el silencio*, p. 31. In an interview on June 28, 1994, Demetrio Cojtí stated that this organization "could not survive because it was quickly dismantled by the army."

189 The PACs were created in September 1981, before the massacres. They involved nearly one million Guatemalans, a majority of them Indians, and their purpose was to involve the civilian population in rooting out the insurgency. The PACs were created after determining that "they (the insurgents) have organized the civilian population into irregular local forces, a type of paramilitary organization whose function is to secure logistical support and information for the guerrilla army. We have studied the model and turned it to our advantage." PDH/AECI/ASADI. 1994. *Los comités de defensa civil en Guatemala*.

From the government/army point of view, once the guerrilla strategy had been defeated, society had to be restructured under military control. The Indian question became, paradoxically, a new strategic matter for state security, this time not in terms of the war but rather in order to restore governability and political stability. The so-called "model villages" in existence for a time operated as virtual concentration camps. The PACs were reinforced and government by fear was the order of the day. Meanwhile, and as a prologue to the reform of government, a new Constitution took effect in 1985 wherein, for the first time, there was a section devoted to Indian rights.[190] Thus, the drive toward democratization and reconstitution of the state only occurred after the Indian holocaust had ensured the guerrillas' strategic defeat.

Dispersion, silence and insecurity were some of the after-effects of this holocaust. Yet nonetheless, a context was created in which Indians were no longer marginal political actors. There gradually occurred a reorganization of Indian life, one characterized by its versatility and flexibility. New types of organizations appeared in the late 1980s and early 1990s. The three areas of interest of these new groups were as follows:

a) Gaining local power (civic and community improvement committees);

b) Confronting the state on its responsibility for human rights violations, especially those perpetrated against Indians affected by the internal armed conflict (CUC, refounded in 1986; CONAVIGUA, founded in 1988; CERJ, 1988; CONDEG, 1989; the Permanent Commissions representing Guatemalan refugees, 1988; CPR, 1990; Sectores Surgidos, 1991; Majawil Q'ij, 1990, and

c) Study of and consciousness-raising around components of Indian (Mayan) cultural identity (Consejo de Organizaciones Mayas de Guatemala or COMG, 1990; Cholsamaj. 1980; Academy of Mayan Languages, 1986; Mayan Writers' Association; Centro de Estudios de la Cultura Maya or CECMA, and others).

In this new and diversified organizational landscape, varying perspectives on ethnicity have re-emerged and the ideological and activist links with the revolutionary organizations have not disappeared. Nevertheless, there is no denying the appearance of an Indian movement whose common concern is respect for Indian culture.

The Indigenous Rights Movement

The third factor (international monitoring and pressure to respect indigenous rights) directly influences the construction and identification of the shared elements motivating Indians to express themselves as such. The Indian movement has acquired a set of fundamentally different dynamics from those of the Ladino popular organizations. The relationships among the various Indian organizations are determined by a new learning process which seeks to answer questions such as: are we struggling for ourselves or for others? What is it that makes us distinct? Can we agree even as we acknowledge our different emphases and methods of struggle?

190 The Constitution of 1945 had included a section recognizing the existence of various ethnic groups. However, according to the Consejo de Educación Maya (CEMG), "the intent of this inclusion was merely to reorient the efforts of Ladino society to increase cultural content foreign to the Mayan people in their school curricula." UNDP/PRODERE. 1995. *Elementos para un diagnostico del desarrollo del pueblo maya*. Guatemala.

As Indian organizations gain awareness of their new role as political actors, their divergences have become apparent in the formation of differing tendencies. But contrary to the prevailing pattern in the West, the segments of the nascent Indian movement have tended towards synergy:

a) The populist strain of the Indian organizations, which maintains its links to strategy of the the revolutionary left, is constantly being de-emphasized. This strategy relegates demands relating to cultural identity to a position of lesser importance and independence.

b) The tendency to address cultural problems from a self-imposed position of exclusion and marginalization from the centres of Ladino power and the rest of society is constantly being de-emphasized. This emphasis devalues actions that could influence the transformation of government.

As stated previously, this dynamic was given impetus by the close relationship between various international developments and the Guatemalan political process. These developments included ratification of Convention 169, preparations for the alternative celebrations of the 500th anniversary of the discovery of America, the awarding of the 1992 Nobel Peace Prize to Rigoberta Menchú and the start of the International Decade for the World's Indigenous People.

Convention 169, the Indigenous and Tribal Peoples Convention, was adopted by the ILO in 1989. That same year, organizations including the Academy of Mayan Languages and the Mayan Writers' Association attended the 10th Central American Conference of Indigenous People, which resolved to call on governments to ratify this convention.[191] The last few sessions of the Guatemalan Congress have avoided doing so and the matter remains in suspension. In the meantime, the private sector has become more unified in its rejection of this instrument. A new front of the popular struggle is opening up, spearheaded by organizations such as the Committee for the Ratification of Convention 169 (Pro 169), CECMA and COMG. It is putting on the political agenda the view that Guatemala is not a cohesive nation.

The second continent-wide conference on the theme of "500 years of indigenous and popular resistance" was held October 7-12, 1991 in Quezaltenango.[192] It was organized by the member organizations of Majawil Q'ij and the Movimiento Nacional de Resistencia Maya (MNRM), whose tendency was in those years less independent from Ladino popular demands. The meeting did not cover specifically indigenous problems in depth. However, for this very reason, it became the principal public forum in which differences of focus were highlighted and resolved.

Such divergences exist between Majawil Q'ij and COMG, which concentrate, respectively, on denouncing the repressive nature of the Guatemalan state and discussing aspects of Indian cultural autonomy and identity. Thus, the conference produced two documents: a memorandum addressed to all the country's authorities regarding the "model villages," the PACs, conscription and land and constitutional reforms; and a formal demand to the government of Guatemala for a public commitment to freedom of organization, Mayan participation in the talks with the URNG, an end to the conflict and militarization, the ratification of ILO Convention 169, an end to impunity and guarantees of the right to life and bodily integrity of the Guatemalan participants in the conference.[193]

191 Bastos S. and Camus M., *Quebrando el silencio*, p. 185.

192 The first such conference was held in Bogota, Columbia in 1989 with the participation of indigenous and peasant organizations. The intent of the Campaign of Resistance was to denounce the genocide of workers, peasants and Indians. As a result, its focus was more on issues of class than of ethnicity.

193 Ibid., p. 170.

The conference threw its full support behind the Indian leader Rigoberta Menchú as a candidate for the Nobel Peace Prize. Ms. Menchú was seen to modify her habitual populist political discourse by incorporating various Indian cultural issues. As of 1991, Guatemalan Indians expanded their international relations with other indigenous communities of the Americas and the indigenous peoples' rights program carried out by the United Nation system. In the process, they acquired more experience in defending their cultural identity.[194]

These meetings evidenced a number of phenomena. First, the Indians are not seeking to institutionalize their organizations. Rather, they want to consolidate the loci of their political influence over transformation of the Guatemalan state at various levels.

Second, at this juncture, the Indian movement is composed of two currents which differ in their foci and methods of struggle. These two are involved in a synergistic interaction which, though it does not impose uniformity, is tending to reconcile varying perspectives on how best to promote Indian rights. One of these currents preserves its ideological ties to the popular struggle originating in the 1970s under the command of the revolutionary organizations. As a result, it does not fully distinguish its specifically Indian demands from its struggle as a whole. Its priority has not been to struggle for the reorganization of the nation based on equal rights for all ethnic groups. The chief exponent of this tendency is Majawil Q'ij. The other tendency, whose chief exponent is COMG, is less militant but cannot be said to be politically marginal. It calls for attention to be focused on transforming the state and society, taking as a point of departure full recognition of equal political and cultural rights for Indians and Ladinos. A broad range of organizations co-exist within this tendency, united in their desire to achieve a less confrontational tone so that they can have a direct influence over government policy.[195]

Third, the Indian movement cannot be reduced to those of the principal organizations representing the two tendencies with a high public profile on the political scene. In the 1990s, "movements" have begun to emerge in the sense of the increasing interaction of groups, individuals and associations seeking to bring "identity consciousness" and a common language with which to interpret their reality and interethnic relations to the Indian bases. Thus, there is identification with the concept of the "Mayan people," lengthy discussion of Mayan rights and identity and the meaning of the concept of "political and cultural autonomy." Research is being done into the status of human rights and the degree to which the prevailing conception of such rights is suited to Indians' specific realities.

Finally, the peace process is the most recent political development that has noticeably magnified the challenges and experiences of the Indian movement. The Agreement on the Identity and Rights of Indigenous Peoples was signed as a result of the negotiations between the URNG and the de León Carpio government. As noted in Chapter 2, this agreement signals the start of a process of transforming the state, and thus decentralizing power, not only in terms of traditional democracy, but also — if the Agreement is enforced and expanded — the historical Ladinocentric pillars on which the marginalization and exclusion of Guatemalan Indians rest will be removed.[196]

194 Ibid., pp. 181-184.

195 Bastos S. and Camus M. *Quebrando el silencio and Abriendo Caminos.*

196 Solares, *Derechos Humanos.*

COPMAGUA AND THE AGREEMENT ON THE IDENTITY AND RIGHTS OF INDIGENOUS PEOPLES

As noted above, the "500 years of indigenous and popular resistance" campaign was the context of both rapprochements and fallings out between Majawil Q'ij and COMG, the two main Indian coalitions. These and other Indian groupings have shown versatility in regrouping to face changing situations. They have done so by energetically working to resolve their differences, and with an awareness that the common theme of political independence (in particular, from the URNG and some mainline political parties such as the Christian Democrats) cuts across their discourse. Following the organization around the 500 year anniversary, they very soon found themselves faced with two national developments: the conjuncture created by President Serrano's *autogolpe* and the new political era ushered in by the peace process and reconstruction.

Majawil Q'ij and COMG joined forces with other Indian organizations in the Mayan caucus of the CSC. Having been absent from the 1990 meetings of popular sectors with the URNG in Metepec, Mexico, the Indian organizations' participation in this political forum represented their first involvement in the peace process. Their intention in forming the Mayan caucus was to build a joint platform regarding the substantive agenda item on indigenous rights and identity. They also asked to participate in discussions on this item as they felt that both sides lacked the legitimacy to advocate solutions.

The relationship between the two groupings once again became one of conceptual struggle. COMG decided to withdraw from the Mayan caucus because it felt that the proposal's final wording subordinated its fundamental concerns (the right to be recognized as Mayan, the right to autonomy and to a Mayan language educational system) to general demands relating to demilitarization and respect for human rights.

Between October 1992 and May 1993, the Mayan caucus was under the exclusive leadership of Majawil Q'ij. Meanwhile, new splits affected other Indian organizations. MNRM distanced itself from Majawil Q'ij; the Coordinadora Nacional Indígena Campesina (CONIC) grew out of the CUC and Pro 169 split off from COMG.[197]

Serrano's *autogolpe* distracted attention from the peace process and offered a new locus of potential influence. The Asamblea del Pueblo Maya (APM) was formed with the participation of COMG, Pro 169, MNRM and the Academy of Mayan Languages.[198] A few days later, the Instancia de Unidad y Consenso Maya (IUCM) was formed with representation from Majawil Q'ij, CONIC and the rest of the member organizations of the Mayan caucus. These two groupings did not agree on a unified course of action. The latter, a member of the Foro Multisectorial, joined the INC in order to propose mechanisms for purging Congress. The APM, preferring more independent action and skeptical that Mayan organizations could have significant weight in the INC, publicly proposed Ricardo Cajas, a prominent Mayan from Quezaltenango, as candidate for Vice-President of the Republic.

A new regrouping occurred following the results of the referendum held in January 1994 by new president De León Carpio. The IUCM had participated in implementing an alternative referendum and called for abstention, while the APM leaders were preparing to enter into direct negotiations with the new cabinet. COMG (with the exception of CECMA, one of its member organizations) and CONIC quit the APM.

197 A detailed description of the history of the Indian organizations may be found in the two works cited by Bastos and Camus.

198 The favorable climate created by this turn of events led to the founding of the Assembly with "213 representatives of 86 Mayan organizations, including the Rigoberta Menchú Foundation, CONAVIGUA, CONDEG, CERJ,... indeed, all the Mayan organizations and some professional bodies, offices." Bastos and Camus, *Abriendo Caminos*, p. 47.

With this configuration of alliances, the peace process got under way. The first relevant fact is that the Framework Agreement signed on January 10, 1994, explicitly recognized the presence of Mayan representatives in the ASC organizing committee. It thus reaffirmed the legitimacy of their participation under the same terms as the sectors that had participated in the Oslo process.[199]

The process of incorporating Mayan representatives into the ASC began with a new phase of consensus and alliance-building resulting in the founding of the Coordinadora de Organizaciones del Pueblo Maya (COPMAGUA), a coalition initially composed of IUCM, COMG, the Academy of Mayan Languages and APM.

The substantive agenda item of indigenous rights and identity was the second to be discussed by the ASC. The writing and final approval of the proposal took less than twenty days. During this time, each sector presented its position on the issue. On May 30, the ASC finalized the proposal after impassioned debates that demanded the utmost effort of consensus and lobbying from all sectors.

The ASC's consensus proposal was based on three core aspects:

1- The recognition that Guatemala is a multiethnic, multilingual and multicultural nation without a legal framework to reflect this.

2- The need to restructure the state (described as "homogenizing, centralist, classist, militarist, patriarchal, repressive and ethnocentric") by building a political system that permits all members of society to interrelate on an equal footing;

3- The recognition of the rights and specific identity of the Mayan people.

In the section on rights, demands and mechanisms, the ASC proposal included the following rights:

1- The right to full-fledged existence as the Mayan people.

2- The inalienable right to community and individual life, and to peace based on justice, democracy and peaceful coexistence.

3- The right to maintain a distinct identity in social, economic, political and cultural affairs.

4- The right to possess, use and administer the lands inhabited by the Mayan linguistic communities and those they acquire in the future in accordance with international law.

5- The right to practice and enforce Mayan law.

6- The right to participate in government decision-making in order to achieve national unity.

7- The right of Mayan women to physical, mental and emotional integrity.

8- The right to recover, strengthen, promote and develop Mayan culture.

9- The right to express oneself in the language of one's own linguistic community.

10- The right to freely organize education and training at all levels for the members of one's own cultural group.

11- The right to organization, mobilization and development of Mayan spirituality.

12- The inalienable right of both men and women to use Mayan forms of attire in all spheres of public and private life.[200]

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199 The Agreement states, "the organizing committee will be composed of representatives of each of the sectors that participated in the Oslo process plus representatives of the Mayan sectors."

200 ASC consensus proposal on the identity and rights of indigenous peoples. In: *Construyendo un futuro para nuestro pasado - derechos del Pueblo Maya y el Proceso de Paz*. Guatemala: Editorial Cholsamaj, April 1995.

The ASC proposal essentially recapitulated the points put forward by the Mayan sector, as represented by COPMAGUA. However, one economic and one political point vehemently defended by the Mayans during the ASC debates were omitted from the consensus proposal because they were felt to be too radical. The first relates to the restitution of expropriated communal lands. The second concerns recognition of the following political rights: the autonomy necessary for self-determination as a people ; constitutional and legal recognition of Mayan institutions, structure, political practice and organization; recognition of territorial autonomy as delimited by linguistic and historical criteria, and participation of the Mayan people, through their representative organizations, in public bodies responsible for policy planning, decision-making and consultation.[201]

The Agreement recognizes the Mayan member organizations of the ASC (currently organized into COPMAGUA) as those in charge of convening the Maya, Garífuna and Xinca organizations interested in participating in the joint commissions set up to implement it. This provision fosters Mayan institutional development and legitimizes Mayan member organizations of the ASC as direct interlocutors of the government. This legitimacy is particularly significant given possible attempts by the government to set up a coopted Indian organization as its interlocutor.[202]

COPMAGUA was temporarily weakened by the participation of some of its Indian leaders in the electoral process, because their active role in publicizing the Agreements had not been fully shared by other member organizations. This work is being carried on at a low level, but with support from MINUGUA, it has begun to organize its head office and conduct a series of community consultations on the substance of the Agreement. These consultations will serve to generate proposals regarding the composition of the joint commissions and lay the bases of networks for implementation.

Thus it may be observed that what the Mayan people are experiencing currently through the activity of their organizations and leaders (religious, political and intellectual) is decisive in the full recovery of their rights, and in creating structures of community and national organization that are tolerant of ethnic and cultural diversity and respectful of ethnic equality at all political levels. This includes legal, cultural, social and economic relationships. This process is perhaps the most complex and difficult aspect of the road to democratization in Guatemala, especially given that at present, impunity for violations of indigenous rights is as entrenched and serious a problem as it has ever been in Guatemala's history.

The organizational thrust and the lobbying strength of the Indian organizations are still deployed in two directions: towards transforming the state and toward changes in relations within society, especially in community life. This influence, along with the debate arising from the Mayan proposals, is encouraging a reconception and transformation of all ethnic identities, including that of the Ladinos. In particular, it is helping to promote a self-awareness of Guatemala's hybrid culture, a phenomenon of great importance since it affects this nation's basic problems. But increasingly, the most direct and concrete impact of the new Indian participation is in the area of the implementation of the Agreement on the Identity and Rights of Indigenous Peoples. This agreement, if implemented, will lead to tangible changes in a hitherto exclusive state. It will also oblige citizens to become conscious of the criminal nature of ethnic discrimination.

201 Ibid.

202 An example was COPAZ president Héctor Rosada's position at a meeting of the technical committee before the Grupo Consultivo. He presented a member of the Fondo Indígena (FODIGUA), stating that this organization would be in charge of managing the resources allocated to implement the Agreement.

Part Three: The Women's Movement

An informal debate is ongoing among the leaders of various women's organizations as to whether or not a women's movement can be said to exist within Guatemala. The question would be of little value if its purpose were to fix a theoretical definition of the term "movement" as a set of groups that are mobilized around a common platform and a cohesive organizational infrastructure, since such a movement clearly still does not exist. Moreover, such a definition might obscure real processes or give the impression that the quality of women's political participation can only be appreciated in those terms. The importance of this incipient debate therefore lies not in the need to label the current organizational reality of Guatemalan women as a "movement," but rather in its appreciation that women are emerging from the domestic sphere, attempting to influence public policy, demanding that the history of social relations be reassessed and, especially, questioning women's roles in public and private life.

Before the 1980s, such a reassessment was an individual, isolated event. Few women, and even fewer groups, used a discourse based on the analysis and defence of women's specific rights. Although the history of Guatemalan women's social participation has not been systematically compiled, there is agreement that, with the exception of a 1940s women's suffrage movement, the tendency has been to subordinate their demands as women to the general struggle to solve problems stemming from the severe poverty and dislocation caused by successive dictatorships and military governments. Thus, there is a record of active participation by indigenous women in the Indian riots, of women's solidarity with their husbands as organized labourers in the 1920s and 1930s, of their successful efforts to create the first women's unions, of the constancy and tenacity of women as educators and of their growing involvement as militants in the organizations of the revolutionary left.

This tendency is an indicator of traditional Guatemalan popular activism, wherein both men and women reacted against totalitarian political systems that reduced the population to a state of subsistence and placed it in a situation of full-scale confrontation with the state. This activism occurred in a context ruled by a patriarchal style of management and interaction. The conditions were not ripe to encourage reflection on the manner of women's participation, much less on the fact that, in addition to problems that were common to all, women had others that were specific to their gender.

Thus, the principal change that occurred at the end of the 1980s was an increasing stimulus to understand the gender issue. Various circumstances contributed to this:

- The impact of the Decade for Women (1975-1985), through advocacy campaigns carried out by international organizations linked to the United Nations system;
- The thematic reorientation of international non-governmental agencies, which began to place greater priority on supporting women's economic organizational activities;
- The exchange of gender organizing experience with Mexico, Central America and South America;
- The creation of national forums for communication among professional women (mostly urban middle-class Ladinas) in which women's issues and participation could be studied;
- The return from exile of dissident revolutionary women with solid training, political experience and a tradition of analyzing women's issues;
- The creation of the Defensoría de los Derechos de la Mujer under the PDH, a contribution to the enforcement of respect for women's rights and organizing outside of urban areas.

Political changes starting in 1985 contributed to the development of a current of public opinion favourable to demilitarization and to the legal and legitimate establishment of civil government. They also made for a favourable context in which to attenuate the logic of counterinsurgency and repression that affected freedom of thought in the country. This would make way for significant new agendas in the social debate, facilitating the efforts of new social actors to express themselves and to test out attitudes of tolerance and acceptance of diversity.

The slowly subsiding internal armed conflict, as well as the reaction against the grave effects of the war on Indian families and increased pressure to combat impunity created a previously unavailable space for women to work in "defence of life," an initiative which was not matched by a similar political involvement on the part of men.

In this context, the first women's organizations found the environment relatively favourable for beginning to break with the reductionist terms that have historically defined the principal social problems and policies. From 1990 onward, women's organization has continued without interruption, and as a result, female leaders have come to the fore. This growing organization is in itself evidence that women are asserting their independence from traditional male political initiatives. But this broad spectrum of organizations (at present, nearly 100 groups) is not uniform; rather, one notes a diversity of emphasis, focus and function that are not all specifically related to gender issues. The three principal foci of this burgeoning organizational activity are:

1- Seeking solutions to the drastic deterioration in living conditions and family purchasing power.

2- Counteracting the effects of the impunity characteristic of the actions of the government security apparatus and supporting the clarification of human rights violations.

3- Understanding, spreading awareness of and seeking solutions to gender-specific problems, the impunity with which women's rights are violated and women's difficulties in getting a hearing for their proposals for social policy and development.

Although groups do not in general have exclusive areas of action, it may be stated that the groups most involved in seeking solutions to the declining quality of life are the development NGOs. Many of these, though profoundly male-dominated, are encouraging women to organize as economic agents, supporting their training in productive, service or commercial activities with which they can increase family income. In general, this type of group offers economic independence, but it lacks input and perspective with which to interpret and gain insight into the issue of gender. A similar lacuna exists in the female-dominated organizations devoted to defending human rights, such as GAM and CONAVIGUA. In some trade union organizations for whom defending standards of living conditions is a major concern, the gender issue is being addressed in the form of campaigns to organize working women.

It is the organizations focusing principally on gender issues that have virtually introduced into Guatemala a new locus of struggle, one that calls for building a new perspective on the dominant concepts of democracy and development and on the general structure of social relations. These women represent themselves alone. They do not seek to represent all women, but rather to reveal exactly how women in general are denied a voice. Although no definitive and uniform concept of gender can be said to underlie the work of all these organizations, they all address, in both theory and practice, the most severe problems affecting women. Examples of such organizations include Tierra Viva, Convergencia Cívico Democrática de Mujeres, Grupo Guatemalteco de Mujeres, Voces de Mujeres and Defensoría de los Derechos de la Mujer, the government status of women office.

With the exception of the development NGOs, the women's organizations, whether focusing on human rights, trade union or gender issues, have adopted what is for them a new role as interlocutors with the state by criticizing public policy or advocating ways to reformulate it. All have dealt, either in an institutional context or in their personal relationships, with negative reactions that can turn into intolerance and sectarianism. However, it is the organizations focusing on gender, which we shall term "feminist organizations," that have created an agenda for debate on the power structure in Guatemala in which the central theme is inequality of rights and opportunities for men and women.

This agenda is still in formation. It is too early to specify the conception of gender, democracy, power or development prevailing among the feminist organizations. Moreover, organized advocacy is still in its infancy: whatever visibility is achieved by most demands addressed to the government is due to the initiative and personal effort of the feminist leaders.

The most typical activities of the feminist organizations are: national meetings to promote education and consciousness-raising on gender issues; demonstrated interest in influencing government policies designed to monitor, protect and guarantee women's rights; and coalition-sponsored demonstrations and events to publicize International Women's Day (March 8) and the Day of Action Against Violence Against Women.

It is also notable that many women who are organized around gender issues have helped introduce into popular forums (such as the ASC and the trade unions) methods that are more participatory, decentralized and accepting of dissidence and diversity. Still, competition, envy, feminist snobbery, authoritarianism and centralization have filtered into the practices of a good number of female leaders. These have affected the maturity of the processes of their respective organizations, making it difficult to improve intergroup relations and to authentically incorporate practices deriving from women's criticism of gender inequality.

Still, it may be concluded that the women's and feminist organizations are helping to democratize civil society and to lessen hostilities between it and the government.

TAKING STOCK OF WOMEN'S RIGHTS

In Guatemala, the institutions, mechanisms, legislation and traditions that guarantee respect for civil rights are still precarious. Within this system of exclusive relations, women are among the most seriously disadvantaged sectors. Of a total population of 10.1 million,[203] 51.2% are women, the majority of whom are Mayans living in rural areas. Seventeen percent of Guatemalan households are headed by women.

The following is some basic data presented as a first step in analyzing the status of women as legal subjects:

The Right to Education:

- Of every ten women, six are illiterate. This is the second highest illiteracy rate in Latin America, after Haiti. For urban women, who are mainly Ladinas, this figure is 26%. Of Mayan women, 72% overall, and 90% in some western localities, are illiterate. As of 1989, 45% of women had had no more than one year of formal schooling. The dropout rate among women increases dramatically after the third year of school. At the secondary level, there are two boys for every girl.

203 Unless otherwise stated, the data in this section were taken from Instituto Nacional de Estadística documents.

- The national educational curriculum places nearly exclusive emphasis on women as reproductive beings (maternity, caring for the family, conjugal duties). The national curriculum neither deals with the multilingual and multicultural reality, nor contributes to an understanding of the reality and problems of Indian and Ladino women.

The Right To Work:

- According to the government economic planning agency SEGEPLAN, 24% of Guatemalan women are part of the economically active population, double the 1960s figure. One third of these women are self employed, particularly in commercial or manufacruring activities. Most of them work in agriculture or services, while a lesser percentage (23%) work in industry. In general, women are paid much less than men for equal work. Guatemalan culture undervalues women's work in bearing and raising children.
- According to SEGEPLAN, only four of ten jobs were held by women in 1990. In industry, maquiladoras are the principal source of jobs for women at present. According to the Defensoría de los Derechos de la Mujer, the *maquiladoras* tend to hire women because their poverty makes them more willing to work, it considers them submissive and the work requires minimal technical qualifications. All these arguments are invoked to justify paying low wages.
- Working women have no effective social safety net. Their working conditions do not include full maternity leave and related rights or public daycare facilities.
- Women in general,, and peasant women in particular, must shoulder more of the physical and mental burden of family labour. This makes their real working hours much longer and thus weakens their health and self-esteem. Structural adjustment and privatization of social services are pushing off onto women what what are more properly state responsibilities regarding the health and education of other family members (the elderly, husbands, grandchildren and children).

The Right to Health:

- With the drastic reduction in social spending, women, especially those in rural areas, have had to assume responsibilities stemming from the inadequate medical and hospital facilities (taking care of the sick) and the limited supply of sanitation and basic services (obtaining drinking water, cutting wood, going to the mill, etc.).
- Seventy-one percent of Guatemalan children are born to Mayan women. Mortality, morbidity and malnutrition rates are highest among Mayan women. Premature births, inadequate birthing and abortion services and malnutrition are three major causes of the high rate of infant mortality among Mayan women (approximately thirteen per thousand).

Civil Rights:

- The Civil Code contains a series of provisions that place women at a disadvantage and in a position of civic inequality with respect to men (economic and commercial rights and duties, rights and duties of representation, conjugal and familial rights and duties). In 1993, a group of female lawyers, in collaboration with the Oficina Nacional de la Mujer and the Defensoría de los Derechos de la Mujer petitioned the Constitutional Court to declare the Civil Code unconstitutional, but their case was found to be without merit.

Political Rights:

- Women's opportunities to influence government decisions and hold positions of power are more limited than those of men. Political discrimination against women is prevalent not only in public institutions but also in political parties and popular organizations. The following figures taken from *Mujeres Latinoamericanas en Cifras 1993*, demonstrate the limited participation of women in the principal institutions of power from 1986 to 1992:

  - Congress: 6 female deputies out of 120
  - Supreme Court: 1 female judge out of 8
  - Court of Appeal: 6 female judges out of 46
  - lower courts: 24 female judges out of 161
  - Constitutional Court: 1 female judge out of 10
  - mayoralties: 3 female mayors out of 230
  - rectors of the five universities: no women.
  - political party executive committees: no women.

Victims' Rights:

- Not enough accessible, effective and decentralized institutional mechanisms exist to give women legal protection against the causes and effects of physical and psychological aggression, sexual harassment and abuse and rape. According to UNICEF, 76% of cases of the most common types of aggression occur in the home.
- In the third critical analysis of the media published by the women's group Tierra Viva (Nov. 1994), dealing with how the media report violence against women, it is stated that in a context of rising public insecurity caused in particular by common crime, consciousness is being raised about women's vulnerability and lack of protection, although reporting on this issue is still marginal. Of the 260 reports of violence found by Tierra Viva in newspapers, 167 were in the category of "street violence," forty in the category "sexual violence by a stranger," eighteen were "sexual violence in the family" and six were labour-related cases.

PUBLIC POLICY OVERLOOKS WOMEN

Motivated by preparations for the IV World Conference on Women held in Beijing, China, September 4-15 1995, various women's groups created a preparatory committee for Beijing[204] to promote a campaign of publicity, education and consciousness-raising designed to work out a common position for Guatemala to take to the event. For the first time, the committee had created a space for dialogue with the government in which public reference was made to the inadequacy and instability of institutional mechanisms for applying policies that address women. De León Carpio's government did not address any of the Committee's requests. Neither before nor after the event did it offer to meet with them to exchange viewpoints or proposals for joint action.[205]

204 The committee was composed of Alicia Rodríguez, Ana Leticia Aguilar, Delia Alemán, Olga Villalta, Carmen Lucía Pellecer and María Eugenia Lemus, the members of the organization Tierra Viva and Defensoría de los Derechos de la Mujer, and some members of Grupo Guatemalteco de Mujeres and Convergencia de Mujeres.

205 The Committee asked the President of the Republic 1) for the names of the official delegates to Beijing; 2) to identify the government official who was to act as official liaison with Guatemalan women during the conference activities, 3) to accept the United Nations' recommendation calling for at least two representatives from women's NGOs to be included in the official delegation, and 4) to reconsider its reservations regarding the concepts of gender equity, women's rights as universal human rights, and reproductive health contained in the preparatory documents for Beijing.

The official Guatemalan delegation was headed by a man and included women who do not live in Guatemala. Its composition strongly reflected patronage and political advantage-seeking. Lastly, it agreed to represent Mother Teresa at the conference in a message translated into a number of languages, the content of which was based on religious precepts inappropriate to the government's commitments under the Constitution and the international conventions signed by Guatemala.[206]

Meanwhile, the delegation of women's NGOs took a Central America-wide consensus position to Beijing. It was designed to implement an international Platform for Action to influence future government strategies, policies, plans and activities. The Platform for Action had not been given official backing by most governments before the conference. At the conference itself, the relations between the official and non-government delegations were notably unfavourable to dialogue. Moreover, the limited and deficient organization of the event was apparent in the lack of translation into Spanish and in the exclusion of non-governmental delegations from participation.[207]

In the end, the governments gave ambiguous and noncommittal backing to the Platform, which called for measures to address: 1) increasing poverty among women; 2) unequal access to education and health services; 3) violence against women; 4) the integration of gender equality and equity components into policies and programs at all levels and 5) the relationships among environment, gender and sustainable development.[208]

The course taken by the process leading up to Beijing was not, generally speaking, a surprise for Guatemalan women. The members of Tierra Viva found these limitations and obstacles to be the expression of a difficult process that would lead to women being recognized as social and political subjects with a voice and a vote.[209] Thus, the challenge facing organizations and women who supported the national committee to prepare for the Beijing conference is to follow up the results of the conference so that space is created for dialogue, negotiation and influence over public policy. They must recognize in doing so the central difficulty that both the Guatemalan state and most political parties (which do not act as intermediaries between people and their government) uphold patriarchal traditions and culture.

According to an NGO document produced with the support of the PDH[210] and which served as a basis for defining a position for Beijing, the Guatemalan government inadequately applies public policies that promote and guarantee women's rights, the main reason being that:

206 Guatemala is a signatory to international treaties designed to eliminate inequality and gender subordination. These include: Inter-American Convention on the Nationality of Married Women (OAS, 1933), Inter-Americana Convention on the Granting of Civil Rights to Women (OAS, 1948), Inter-American Convention on the Granting of Political Rights to Women (OAS, 1948), Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (ILO, 1951), Convention on the Political Rights of Women (UN, 1953), Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (UN, 1956), Convention on the Nationality of Married Women (UN, 1957), Convention No. 111 Concerning Discrimination in Respect of Employment and Occupation (ILO, 1958), Convention Against Discrimination in Education (UNESCO, 1960), Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (UN, 1962), Declaration on the Elimination of Discrimination Against Women (UN), Convention on the Elimination of Old Forms of Discrimination Against Women (UN, 1979), Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (OAS, 1994). See IV World Conference on Women/ Beijing, China 1995/ Informe de las Organizaciones No Gubernamentales de Guatemala. Human Rights Ombudsman, Guatemala, 1995.

207 In a public communiqué on September 13, the Central American women's organizations indicated that there was strong pressure during the conference from the Vatican and Opus Dei to dissuade participants from committing to implementation of the Platform.

208 "Delegadas centroamericanas ante la IV Conferencia Mundial para la Mujer," NGO Forum 95. Supplement paid insert, 4 pp., Siglo XXI, July 23, 1995.

209 "Juntas Hacia Beijing" No. 3, June 1995, p. 1.

210 This document, titled *IV Conferencia Mundial de la Mujer/ Beijing, China 1995/ Informe de las Organizaciones No Gubernamentales de Guatemala*, was produced with the cooperation of UNICEF and Tierra Viva in 1995. Coordinated by the Defensoría de los Derechos de la Mujer, about thirty non-governmental, state and international organizations collaborated in producing it.

> In Guatemala, the relations between men and women and between women and society are determined by a patriarchal, patrilineal and patrilocal system. By this, we mean that the patriarchal concept is founded on the predominance and overvaluing of the male figure (grandfather, father, son, brother, etc.), and on the fact that every male individual exercises full power and authority both at the macrosocial (public) and microsocial (within the family unit) levels. It is a system built around a model of values, practices and customs that attributes superior skills and abilities to men, while women are held to be dependent, passive, emotional, superfluous, irascible, docile, etc.[211]

After reviewing the government's 1992-2000 Social Development Action Plan (PLADES) and contrasting it with the policies actually effected by the government, the organizations that participated in producing the report found that, in general, the directives regarding women never leave the realm of the theoretical and there is no system for linking strategies with policies and actions for making them operational. The following is a summary of the NGO report's comments on the main public policy strategies:

Education:

- Although education is one of the factors most responsible for women's socio-economic development as individuals and as a group, PLADES contains no specific educational policies directed at women. It merely refers to broadening educational outreach to include repatriated and refugee women and calls for improvements in basic education for girls. The majority of the ongoing educational programs and projects lack a gender perspective. They prioritize objectives deriving from their concerns of international financial organizations, which emphasize job training, social mobility and socio-economic integration.

Health:

- Only one of the eleven major program divisions under the Ministry of Health (Individual Care: Gender-based Perspectives on Health, Women and Development) includes gender-based programs such as a maternity program, improving health conditions for mothers, especially pregnant and lactating women, and APROFAM, a family planning agency. This division recognizes malnutrition and premature births as the main causes of death in women. Unfortunately, these policies narrow the focus on women's health care to their reproductive capacity. As a result, they de-emphasize preventive and curative programs relating to sexuality and violence against women. This is, nevertheless, the one sector in which actions in favour of women are enunciated and implemented.[212]

Labour:

- Labour policies are designed and implemented with a marked preference toward men. The programs in which women participate, such as training, strongly identify vocations and professions as either male or female. The PLADES for 1997-2000 has announced that a gender component will be incorporated, but it begins with the assumption that women are the "linchpins" (*ejes*) of the family. It is precisely this idea that leads to the belief that women are the centre of the family. In consequence, they are saddled with a triple burden, with the justification that this work is their obligation as wife and mother.

211 Ibid., p. 7.

212 The Ministry of Health created for the first time, a clinic in Cuilapa, Santa Rosa department, for women victims of violence. However, the Procurator's report (p. 19) notes that it was closed shortly afterward.

- In May 1992, the Ministry of Labour created a child labour unit, an action that constitutes progress as this unit has been informing child labourers of their rights. This Department has also stepped up its monitoring of companies in which children work, but a special policy on protection and support of child labourers has yet to take effect.

Victims' Rights:

- Currently, there is no national policy directed at women victims of aggression and violence. However, the government has signed and ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women. It thereby assumes the obligation of designing and carrying out projects to prevent, reduce, punish and eradicate aggression and violence against women and girls.[213]
- There are no policies, programs or projects aimed at offering rehabilitation services to women detainees. Although such services offered to men are also deficient and violate prisoners' rights, they offer a greater range of options (such as compulsory schooling up to sixth grade, complete vocational training programs, medical care and more visiting days each week).

Given the above-mentioned lacunae and deficiencies in public policies, the feminist organizations, at the initiative of the Beijing conference participants, are currently interested in broadening the debate and stepping up organizational efforts to discuss a strategy for lobbying the government and society. This strategy might include the following components:

- greater participation by women in a democracy that offers them equal opportunities and rights;
- devising a development strategy based on equity, sustainability, respect for the environment and environmental conservation, prioritization of the rights of women and Mayans and recognition that productive and reproductive labour are not mutually exclusive;
- building a nation that can live in peace and without violence;
- immediate compliance with the treaties and conventions on women's rights and application of strategies, programs, policies and projects addressing women's problems at the national level;[214]

The committee in Beijing has developed a plan of action to adapt the Platform for Action to Guatemala by means of short-, medium- and long-term strategies. This Plan will be presented to the President's cabinet in the hope of lobbying public institutions to reach consensus on the definition and execution of short-term policies. The medium- and long-term policies would include rapprochement with all actors of civil society.

WOMEN'S VIEWS ON POWER AND POLITICAL PARTICIPATION

The feminist organizations are seeking an alternative explanation for how power is wielded in Guatemala. Growing out of this pursuit is a current of thought that attempts to re-explain the roots of the country's social structure. This stance has not yet resulted in a mobilization of women around a common platform with a certain level of organizational structure. In their pursuit of that desired unity, these women and organizations are currently involved in a dynamic of exchange, reflection and debate, creating new ideas and new forms of knowledge and struggle.

213 Ibid., p. 45.

214 *Juntas Hacia Beijing*, No. 1, 2 and 3, March, May and June, 1995. Tierra Viva, Encuentro Centroamericano de Mujeres. Discussion papers. March 1993, Managua, Nicaragua.

During a conference on leadership, power and political participation organized by Tierra Viva from August 8-12, 1994, whose follow-up began in October 1995, the participants dealt with the most deep-seated and formerly untouchable assumptions upon which a reductionist explanation of the nature of women and men has been built.

Speakers at the conference repeatedly pointed out the hegemony of the patriarchal system of ideas within whose logic certain dogmas are accepted as indisputable: (1) that there is a strict separation between domestic or private life and political or public life; (2) that domestic life is by nature women's affair and that public life is appropriately the domain of men; (3) that political participation consists in helping ensure the functioning of existing institutions and relationships.

Participants in these workshops noted that for centuries, men have, from a position of dominance irrespective of class, defined what is socially important. Thus, the activities of the public or male domain are more socially visible and highly valued than those of the private or female domain.[215] Similarly, only activities in the public sphere is classified as political, ignoring the fact that male power has appropriated women's productive and reproductive capacity. That is, it has hidden the fact that women's traditional role in the home is in itself a decisive form of hegemonic political domination.[216]

In general, although with varying emphasis, the feminist organizations concur that there is a need for a new concept of power not based on oppression, authoritarianism, violence, discrimination, corruption and *caudillismo*. To reach this objective, various feminist leaders also suggest determining which changes are necessary to induce and strengthen women's political participation. At this conference, Alicia Rodríguez Illescas maintained that women's political participation can be renewed and move away from traditional patterns if it aims "to provoke real changes and/or transformations in the state, its institutions, power and socio-economic and cultural relationships."[217]

This new political participation should promote the democratization of existing sources of power, which would involve women in effecting social change. This would include democratizing the family and gaining positions of political power from which to alter how such power is itself wielded. The immediate reason for developing women's political participation is to enable them to develop transformative power.[218] Strengthening women's political participation necessarily entails struggling to eliminate poverty and restrictions on women's freedom of expression.

Also noteworthy at this conference, whose proceedings will be used to delineate policy proposals, is the discussion on the importance of seeking new forms of participation that avoid elitism and overcome coordination deficiencies and the women's lack of negotiating experience with other sectors. After calling on women to seriously consider what steps are necessary to strengthen their position as political actors, María Eugenia Mijangos described as a "feminist ethic" the characteristics of Guatemalan women's participation in an environment where such an ethic is far from prevalent:

- acceptance of diversity and respect for differences,
- negotiation among varying interests as a core feature of democratic politics,

215 Presentation by Alma Odette Chacón on the third day of the conference on leadership, power and political participation.

216 "Poder, Participación Política y Liderazgo de las Mujeres," a paper given by Ana Leticia Aguilar Theissen at the conference on leadership, power and political participation, August 1994.

217 "La Participación Consciente y el Reconocimiento del Liderazgo, Factores Indispensables en el Ejercicio del Poder por las Mujeres," a paper presented by Alicia Rodríguez Illescas at the conference on leadership, power and political participation, August 1994.

218 "Convergencia Cívico-Política de Mujeres," a paper presented by María Mercedes Asturias at the conference on leadership, power and political participation, August 1994.

- relations among women based on the principle of alliances among peers,
- frank, direct dialogue as a political method,
- building formal leadership structures.[219]

Finally, this conference and its follow-up have revealed the necessity of broadening women's participation by pooling ideas, through greater involvement of women outside urban areas, decentralization of the power concentrated in feminist leaders, defining new more action-oriented ways of working with women and a willingness to define and organize around a platform that includes both global and individual demands.[220]

In Guatemala today, women's organizations are key actors which are instigating and broadening the democratization of the state and society. Their continuing efforts have successfully revealed the high levels of impunity for violations of women's rights. The consciousness-raising carried out by the feminist and women's organizations has not only enhanced the self-esteem of the women with whom they work, but has also made it possible to seriously discuss (with analysis and proposals) what had previously been a taboo topic in Guatemala.

Obviously, their impact cannot and should not be measured by the number of women's organizations, nor by speculations as to the number of women they represent. The quality of their work can be seen as a function of how they have generated changes in social relations: by drafting laws, government policies, cross-sector contributions and dialogue to promote an alternative to the prevailing system of social development; by making room for women in what have been traditionally been overwhelmingly male-dominated bodies; by suggesting new types of leadership. The challenges are great, because the patriarchal logic of this society underlies all social sectors, not just the state. For this reason, their work may be invisible, as fully comprehending what women have experienced requires an approach to power that is non-aggressive, non-violent, tolerant and open to equality in diversity.

Part Four: The Movement for Human Rights and the Justice System

The development of Guatemalan human rights groups has followed a different path than in El Salvador, where non-government groups and the Church kept their offices open throughout the civil war of the 1980s. In Guatemala, the groups whose principal demands relate to human rights (such as GAM, CONAVIGUA and CERJ) emerged in the 1980s, but the work of documenting cases and reports has not only been low-profile but also tended to vary depending on the political circumstances. For this reason, they are not considered here to be human rights bodies *per se*, given that their actions are more of a political than of a legal nature. Proof of this priority is the fact that their primary activity at present is support for the FDNG electoral campaign.

The non-government human rights organizations as well as the two government-sponsored ones (PDH and the President's Commission on Human Rights, or COPREDEH), perform a variety of functions which, taken as a whole, serve to oversee the justice system. These functions include:[221]

219 "Hacia una Propuesta Política Feminista," paper presented by María Eugenia Mijangos at the conference on leadership, power and political participation, August 1994.

220 Interview with Yolanda Aguilar, Defensoría de los Derechos de la Mujer official, August 22, 1995.

221 This categorization of functions is taken from a document prepared by the Proyecto de Fortalecimiento Institucional de ONG promoted by MINUGUA and UNDP and carried out by the Coordination of NGOs and Cooperatives for the Accompaniment of the Population Affected by the Internal Armed Conflict (CONGCOOP), August 1995.

1- **Promoting awareness of human rights:** Publicity and education to develop a public culture of human rights, training of technicians and professionals, legal and historical investigations on human rights violations in the country.

2- **Denouncing human rights violations:** Receiving complaints from the public, determining the likelihood that violations have occurred, reporting violations to the public, the authorities and the international community.

3- **Verifying that human rights are respected:** Investigating complaints, observing police activities, following legal cases (to verify due process), preparing reports on the national situation.

4- **Legal action** (for an end to violations and punishment of those responsible): Advising on the use of legal mechanisms, supporting jurisdictional bodies, filing administrative and legal action (e.g., *habeas corpus*), bringing actions (as plaintiffs) before national courts and international organizations.

5- **Support for victims and witnesses, and preventing possible violations:** Providing humanitarian assistance, protection (arrangements to ensure their safety), psychological attention, helping victims obtain compensation for damages suffered, offering mediation for social conflicts that could give rise to human rights violations.

6- **Promoting policies on human rights:** Accompanying and advising social movements, promoting public debate, creating lobbying campaigns on the government, advising and cooperating with government agencies (as well as with international organizations), formulating policy proposals and preparing draft legislation.

The institutional context in which these groups function is one of generalized impunity. As previously mentioned, this phenomenon transcends the human rights situation and affects all aspects of national life. Impunity constitutes the chief obstacle to assuring and increasing the impact of these groups, not only because it impedes the administration of justice but also because it threatens their very safety.[222] The persistence of a weak, centralized, inefficient and corrupt legal system that is subject to political pressure is another major hindrance to human rights organizations as they attempt to do effective legal work.[223]

There are also legislative voids in terms of guarantees of the safety of defenders, witnesses and victims, which must be filled if the degree of protection of their activities is to be heightened. In general, the philosophy of these human rights institutions consider the backbone of the rule of law, and hence, of an effective process of democratization, to be a stable, transparent, autonomous and professional justice system. Their vision of society gives them consistent arguments and proposals with which to demonstrate the dangers of impunity and to contain abuses by the security forces.

These are not organizations that base their action on political spectacle. Their legal arguments against impunity have been well received in international forums. This has helped to create non-politicized pressure to demonstrate that the principal obstacles to justice in the country are impunity, the abuse of power by the security forces and personal and institutional corruption in the justice system. These organizations are also those most active in calling for the enactment of basic legal instruments (for example, a new criminal code, a minors code, a civil service law for the judicial body, a legal profession law, a police profession law, a military and social service law that recognizes conscientious objection, legal amendments to eliminate martial law, etc.), all of which allow the corresponding institutions to fulfil their obligation to look after public safety and to prevent, investigate and punish crimes.

222 Chapter 1 presents an analysis of the current status of the justice system.

223 "Barrientos: No hay interés del Estado en apoyar el CPP" *Siglo Veintiuno*, December 13, 1994.

However, the main obstacle met by these organizations is that the impact of their human rights education activities on the population is diluted by the resistance of the judiciary and the security forces to accept and implement *modi operandi* that are subject to law. As a result, public trust in these institutions is not growing in a stable, secure and long-range fashion. The human rights organizations still do not find in officials of the judiciary, the Public Prosecutors Office and the National Police, public servants who are willing to cooperate in the various phases of a legal investigation. In addition, the lack of professionalism of most of these officials combined with their bureaucratic and often authoritarian culture makes coordination difficult.

The human rights groups do not constitute a movement *per se*. As with other civil sectors, these groups are dispersed and lack optimum conditions under which to exchange knowledge and coordinate their efforts and impact. Communication is the most important resource for these groups, particularly the periodic use of the media, publicity on human rights issues, training programs that create networks of multipliers in rural areas of the country, and forums and seminars. As well, each institution has a variety of projects including legal aid, human rights education, support for training of members of the judiciary and denouncing violations.

The work of these groups, along with broad processes of human rights education, is carried out by NGOs that do not specialize in issues surrounding the justice system.. In general, Guatemalans' lives have been shaped by violence, which has degraded their sensitivity to human rights violations and their trust in the legal system. The human rights education spearheaded by these organizations is helping give Guatemalans the tools with which to understand and enjoy their rights. By laying the foundations for the recovery of a sense of civil belonging and historic memory, these organizations are conditioning the public to recognize any attempt to return to the past.

THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN

Alongside human rights organizations, the public agency responsible for promoting and systematizing the reception of human rights complaints is the Office of the Human Rights Ombudsman (PDH) created in 1987 as a body dependent on Congress. During Ramiro De León Carpio's tenure in this position (1990-93), the PDH kept up constant vigilance for violations committed by the executive and legislative bodies. This gave rise to reactions fomented by the army that linked human rights to subversion. De León Carpio's reputation was such that, during the 1992-93 dialogue between the URNG and the government, the URNG easily accepted him as a candidate for president of a truth commission.

The PDH has helped maintain a certain control over the government's conduct with respect to human rights. It has made room for the emergence of the human rights NGOs and has specifically denounced certain public bodies and officials as being responsible for violations. Its function is limited to monitoring, since it does not have the power to compel legal proceedings to be instituted; however, its investigative activity has, as yet, been limited. The PDH, under the direction of Jorge Mario García Laguardia, has been praised for its strong resolutions against the PACs and abuses by the police and the army. Conversely, it has been criticized for its relative inability to investigate specific cases of violations.[224]

Paradoxically, during the De León Carpio administration, both Congress and the executive directly and indirectly showed their disinterest in the work of the PDH: directly, by allocating scant resources to it even as the President strengthened the COPREDEH by setting up new offices in the

224 Human Rights Watch/Americas. 1994. *Human Rights in Guatemala During President De León Carpio's First Year.* New York and Washington, D.C.

departments; and indirectly, by ignoring or minimizing its recommendations. It is worth mentioning that the prestige of the PDH could be affected by MINUGUA's presence if the two institutions do not find ways to cooperate on matters of mutual interest, and thus strengthen the PDH while assisting MINUGUA in its verification tasks.

THE INTERNATIONAL SYSTEM AND HUMAN RIGHTS

The international community has been observing the human rights situation in Guatemala in the last two decades, culminating in the *in situ* verification carried out by MINUGUA. The UN Commission on Human Rights named a special rapporteur (Viscount Colville of Culross) for 1982-1986, a special representative for 1987 and finally an independent expert (Héctor Gros Espiell, 1987-90; Christian Tomuschat, 1990-93; and Mónica Pinto, 1993 to date).[225] The period of Professor Tomuschat's tenure coincided with the stage in Guatemala's history during which the human rights issue gained a degree of legitimacy and importance on a national scale. His reports and comments during visits (although he did so only a few times a year) were received as an important point of reference in the national debate.

Also during this latter period, the IACHR had some impact on national politics, particularly with the increasing use by Guatemalan NGOs of international human rights legislation in coordination with this entity.[226] As well, the Inter-American Court of Human Rights has ruled on various cases in Guatemala and called for the protection of various witnesses and victims.

It was against this background that MINUGUA was established in November 1994. MINUGUA benefited from the cumulative experience of human rights missions in El Salvador, Haiti and Cambodia. The UN Observer Mission in El Salvador (ONUSAL) had to some degree supplanted the work of human rights NGOs, while it began very late to provide training for human rights entities and the Human Rights Ombudsman. MINUGUA's mandate took this problem into account and stipulated that the Mission was to strengthen government institutions instead of verifying fulfilment of their commitments.

MINUGUA's institutional development work is just beginning. Cooperation agreements have been signed with the Public Prosecutor's Office, the judiciary, the Supreme Court, the PDH and the National Police. However, generally speaking, actions under these agreements have so far been limited to merely providing a few advisors to these institutions. The trust fund for the peace process is receiving considerable international financial support (principally from Norway, Sweden, Denmark and the United States) and is expected to increase in 1996. There are also plans to strengthen and train members of NGOs and other human rights groups. For this purpose, MINUGUA, in cooperation with UNDP is preparing an analysis and a proposal to be presented in late 1995.[227] The professionalization and strengthening of public institutions undoubtedly depends on the political will of the officials in charge.

ANALYSIS AND IMPACT OF THE HUMAN RIGHTS NGOS

Successful strengthening of human rights NGOs also depends on how willing these groups are to rectify their technical deficiencies and rethink their methods so as to adapt to the present moment. The organizations involved in various ways in promoting the observance of human rights

225 The tenure of Lord Colville was particularly embarrassing for the UN given the partiality of his reports to the government.

226 Primarily at the national level, ODHA and CALDH have worked in cooperation with these institutions, while Americas Watch (now Human Rights Watch/Americas) and CEJIL have worked in the international arena.

227 This project is being carried out by CONGCOOP.

are having to undergo a phase of internal strengthening and developmental training within a context that is unpropitious for their activities. A synthesis of their self-observations reveals the following internal difficulties:

- First, they lack personnel with legal training, particularly lawyers. This is because their lack of funds makes it difficult for them to offer high enough salaries to attract professionals, and because of the limited availability of trained individuals to do this kind of work. For example, the Archbishop's Human Rights Office (ODHA) has had difficulties finding a lawyer from El Quiché to work in a legal office at the church in Chajúl.
- Second, many groups are carrying out human rights education programs with methods and resources that are inappropriate to the communities they reach. However, efforts are ongoing to translate human rights legislation into Mayan languages, as well as to adapt teaching materials to the needs of a country where illiteracy is rampant.

Another technical difficulty faced by these groups is the relative unreliability of their statistics on human rights violations. This is due to insufficient training in appropriate methods for investigating these cases. Even ODHA, the most professional group, bases its statistics on journalistic accounts and not verified reports. Violations cannot be determined to be political or the responsibility of the government on the basis of unverified news stories. At best, results generated in this way can be considered general indicators of violence, but they cannot confirm government responsibility. In large measure, the failure to assign criminal responsibility for violence has fomented more radical discourse around the human rights issue.

In general, the most relevant impact of these organizations has been their direct involvement in bringing legal action in well-known cases of human rights violations. Their importance also lies in their being at the forefront of the movement for accountability in government. They have thus cultivated public opinion in favour of prompt and effective justice, a current of opinion which is increasingly finding outlets in the media.

One of the most important activities undertaken by these organizations is related to the functions of the Truth Commission. As mentioned previously, the Truth Commission is to receive background and information on violent acts and human rights violations occurred from the beginnings of the armed conflict up to the signing of firm and enduring peace accords. Its role is to clarify and analyze factors and circumstances that affected these situations and to produce a final report.[228]

CONADHEGUA and the PDH are attempting to participate in the dynamic generated by the Commission, but their endeavours are just beginning.[229] Additionally, a project of various dioceses of the Catholic Church that aims to assist in the recovery of historic memory will provide revealing input that will be extremely useful for the Commission's work.

228 Agreement on the Establishment of the Commission to Clarify Human Rights Violations and Acts of Violence that have Caused the Guatemalan Population to Suffer, Oslo, June 23, 1994.

229 CONADHEGUA was formed on October 12, 1993 and is composed of CERJ, GAM, CIEPRODH, Asociación Guatemalteca de Juristas (AGJ), CDHG and Atanasio Tzul (Chicago).

Part Five: The Development NGOs

In Guatemala, development NGOs are those which establish links with communities in order to carry out organizational, social, economic and political projects. Their overall objectives are to raise the standard of living and organizational capacity of the communities with which they work. Although a complete list of these organizations has not been drawn up, the Consejo de Bienestar Social, one NGO umbrella group, estimates their number at approximately 1500. This broad spectrum may be divided schematically into two categories according to their methods and goals:

1- Those which emphasize economic projects carried out under market conditions and de-emphasize participatory organization and democratic education of communities.

2- Those which attempt to coordinate project implementation with actions aimed at consolidating the democratic organization of communities.[230]

The proliferation of NGOs is directly related to two phenomena: first, the increasing flow of funds in the 1960s and 1970s to the countries of the South which were wracked by natural disasters and internal armed conflicts; and second, the inability of Third World governments to provide the financing and institutions necessary to meet the their own populations' demand for social services.

The year 1976 in Guatemala could be said to mark the start of an accelerated process of formation of NGOs. The February 4 earthquake and the international community's concern about the evolving Central American armed conflicts widened the influx of external resources through non-governmental channels.

Many NGOs founded in the 1970s and 1980s had to face community situations characterized by subsistence-level income of the population and minimal services offered by the government, as well as insufficient guarantees of public safety. Their actions began to be determined by (1) the fact that the level of support they had to offer was always significantly less than what the population demanded, and (2) their community work was carried on under political conditions adverse to social organization. These two factors helped entrench a *modus operandi* characterized by *asistencialismo* (a term used to describe aid policies that contribute to dependency rather than self-sufficiency). This trend was encouraged by the orientation of the external cooperation agencies. Thus, it may be stated that the principal impact of many NGOs during the last 15 years has been to shore up subsistence economies and provide basic consciousness-raising for the population.

At the start of the 1990s, changes occurring both nationally and internationally placed new demands on NGOs and generated a new vision of their role. Central America moved out of the international spotlight. The hegemony of the market imposed new patterns of financial investment and the developed countries of Europe were paying more attention to rebuilding markets in Eastern Europe as well as to the ongoing problems of poverty and crisis in Sudan, Somalia, Rwanda and other African countries.[231] As a result, new approaches to dealing with poverty appeared. There was a rejection of humanitarian assistance and growing belief that sustainability should underlie the new approach to external cooperation.[232]

230 The first type includes FUNDABIEN, FUNDAZUCAR and FUNDACEN, the member organizations of the Consejo de Bienestar Social and ASINDES (although not all of its members). The second type includes various member organizations of CONGCOOP and COINDE such as CIDECA, CEDEPAC, ALIANZA, PRODESSA, ACECSA, FUNDADESE, ESFRA, CONCAD, COINDI, etc. Other organizations of the second type are COMG, CDRO, IDEAS, SERCATE. There is also another group of NGOs which do not carry on organizational work and concentrate on providing humanitarian assistance. For a recent analysis of Guatemala's NGOs, see "La Nueva Opción para el Desarrollo: La Articulación de las ONG's y Los Grupos de Base en Guatemala," Víctor Gálvez Borrell and Evelyn Klussman Oatws, Guatemala, September 28, 1992, unpublished manuscript. See also Centro de Estudios Integrados de Desarollo Comunal (CEIDEC). 1993. *Guatemala, ONG's y Desarrollo: El caso del altiplano central.* Mexico: Editorial Praxis.

231 *La cooperación no gubernamental europea hacia Centroamérica: la experiencia de los ochenta y las tendencias en los noventa.* Kees Biekart. PRISMA. El Salvador. November 1994.

232 Ibid.

Currently, the majority of Guatemalan NGOs are struggling with a twofold problem. First, the government's inability to design and implement stable policies to promote growth and fight poverty has become ever more apparent. Second, foreign NGOs are tying their funding of their Guatemalan counterparts to demonstrations of more efficient management of resources.[233]

According to Kees Biekart, European agencies tend to propose agendas for "making over" Central American NGOs that involve:

- repositioning them with respect to the popular organizations, the government and the donor agencies;
- increasing their professionalism;
- improving their evaluation, monitoring and administrative efficiency;
- strengthening national and regional coordination networks among NGOs and popular organizations;
- improving and coordinating lobbying work on Central American issues in European countries;
- reducing their dependency on external resources, fostering their self-sufficiency and seeking ways to obtain resources locally.[234]

These recommendations grew out of informal discussion on how Central American NGOs have been influenced by the ideological and political struggle of the preceding decades. In Guatemala, many NGOs assimilated the anti-government attitude that typified the popular movement and the armed left. Although the reasons for such a rupture between the state and civil society are understandable, the result was to exacerbate the confrontation. Coordination and supervision of local and national governments were hindered, thus fomenting impunity. it has also come to light that some NGOs funneled resources to the armed left, using non-transparent accounting and decision-making methods to conceal their actions. Top-down institutional structures are another aspect of this political legacy: unchanging executives, absence of democratic decision-making mechanisms, absence of training programs to increase all employees' professional qualifications and prevalence of attitudes that de-emphasize the legality and institutional development of popular organizations.[235]

Moreover, the majority of NGOs still go about their community work cautiously, establishing relationships with community groups without encouraging local organizational processes that facilitate interinstitutional coordination or training in political participation at the municipal level. This dynamic is exacerbated by divisions and prejudices which make it difficult for them to have an impact on local and national government policy.

THE RESPONSE OF THE NGOS

Most NGOs agree in their analysis of the changes that have occurred in Central America and of their own limitations. This kind of analysis was one of the central activities of the first Guatemalan NGO conference organized in May 1995 by the NGO Forum. The following

233 In 1987, Guatemala received the lowest percentage (13%) of donations from the eight largest European non- governmental agencies cooperating in the region, while in 1992 it received the highest percentage (28%). The agencies are APN, ICCO, Oxfam-Belgium, Bread For The World, CEBEMO, Christian Aid, Oxfam-UKI and HIVOS. Kees Biekart, *Las Agencias Europeas de Cooperación No Gubernamental y la Democracia en Centroamérica*, p. 32, August 1994.

234 Ibid.

235 Some of these issues were addressed at the roundtables at the Primer Congreso de ONG held in May 1995.

objectives were highlighted at this meeting: increasing strategic and administrative planning capacity; increasing capacity for advocacy and influence in response to pressure from external cooperation organizations; redefining priorities and mechanisms for interacting with the government and influencing its policies; generating coordination processes to help carry out the tasks of democratization and the post-war period, and supporting effective efforts to build a multicultural, multilingual nation.

There is a debate among development NGOs as to how to revamp their traditional operational methods. With the knowledge that international cooperation agencies are currently redirecting their resources towards higher-risk areas and sectors (women, children, Indians and the environment) and toward sustainable economic projects, the NGOs have begun to attend to their development as institutions and strengthen their administrative capacity. for these reasons, they argue that they should receive support and that they need strategies to make the transition toward more efficient project management. They are exerting their influence on their foreign counterparts to make them realize the necessity of such an institutional development phase.[236]

Arising from this debate has been the theme of breaking with the historically ad hoc vision made necessary by the subsistence living conditions of the NGOs' target population. in past decades, the NGOs had a low public profile with respect to addressing national problems. Their methods consisted mainly of expressing their support for the popular movement's demands through paid advertisements or participation in demonstrations. From the 1990s onward, their activities around national problems tend to be more independent and effective. The emergence of the Coordination of NGOs and Cooperatives for the Accompaniment of the Population Affected by the Internal Armed Conflict (CONGCOOP) constituted a substantive break with the isolation of the preceding decades. CONGCOOP is becoming a locus of support for the return process and also a body that facilitates negotiations among the returnee organizations, the government, the UN organizations and the cooperation NGOs. It participated in the Foro Multisectorial following the *autogolpe* and helped NGOs find ways to participate in the peace process.

The 12-member Consejo de Instituciones de Desarrollo (COINDE), one of the oldest (1976) coalitions,[237] is currently involved in an internal debate on its position with respect to that of the government and public agencies around agricultural, economic and social policies. It has thus begun to study the development policies implemented by the government, the international financial organizations and national actors (such as the Mayans, the church, the private sector, women, etc.). The goal is to design and build consensus around an alternative development proposal that could serve as a guide for relations between NGOs and the government. Besides those of its goals specifically linked to its socio-economic projects, COINDE's objectives include strengthening democratic pluralism and supporting efforts to consolidate civil society. It is a member of the NGO caucus of the ASC, and has been designated to develop and present this caucus' presentations on the substantive agenda items of the negotiations between the URNG and the government.

A federation of NGO coalitions composed of COINDE, CONGCOOP, COMG, the Asociación de Entidades de Desarollo y de Servicio No Gubernamentales de Guatemala (ASINDES) and the Foro Permanente de ONG y Cooperantes, is participating in the ASC as the NGO caucus.

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236 Ibid., pp. 51-58.

237 COINDE is made up of Alianza para el Desarollo Juvenil (ALIANZA), Asociación de Asesoría a Proyectos de Desarrollo (ADAPO), Asociación de Servicios Comunitarios de Salud (ASECSA), Asociación para la Educación y el Desarrollo (ASEDE), Coordinadora Cakchiquel de Desarrollo Integral (COCADI), Consejo Cristiano de Agencias de Desarrollo (CONCAD), Cooperación Indígena para el Desarrollo Integral (COINDI), Fundación de Desarrollo Educativo, Social y Económico (FUNDADESE), Fundación Ecuménica Guatemalteca "Esperanza your Fraternidad" (ESFRA), Instituto par el Desarrollo Económico your Social de América Central (IDESAC), Proyecto de Desarollo Santiago (PRODESSA) and Sociedad para la Juventud Guatemalteca de Mañana (SOJUGMA). Through its affiliates it offers services such as education, health, agriculture, marketing, infrastructure, organizing of women and the Indian population and community training.

The federation in question has 95 members. It was founded in 1993 at a workshop in which it was deemed desirable to adopt a joint position on the government's policy through the social investment funds. It was also in that year that an open letter to the President of the Republic was published demanding that NGOs be allowed to participate in designing and carrying out an integrated development policy. The Federation also played a central role in supporting the uprooted population through the direct involvement of CONGCOOP.

At the initiative of COINDE and CONGCOOP, this federation brought a proposal to the NGO caucus of the ASC to develop a joint position from which to affect the allocation, implementation and supervision of international aid (from governments and bilateral and multilateral financial organizations) expected in 1996 to implement the peace accords and the reconstruction. New methods of social participation were used in this experience, including lobbying and the direct exchange of proposals with representatives of public agencies such as COPAZ and the Technical Commission of the Ministry of Finance.

Within these NGO coalitions, there is interest in directing their actions at complementing two processes: First, actions of a political nature such as defence of rights, education for democracy, and participation in the peace process; second, more recent and hence more embryonic, actions aimed at gaining a new assessment of the government as a valid interlocutor, strengthening administrative capacity, diminishing humanitarian assistance and expanding sustainable projects.

Summarizing the impact of NGOs in these areas is difficult. As a first approximation, it may be said that qualitative changes are occurring in their political education work. The NGO discourse is also becoming less confrontational and more advocacy-oriented. NGOs are tending to place greater emphasis on strengthening local power, although actions aimed at helping communities become involved in decision-making on matters of public interest still do not predominate. The participation of NGOs in the ASC has helped broaden the debate on the political negotiation to communities and non-governmental leaders and officials, and has improved cross-sector relations.

As to the second function, on the whole the weaker of the two, the results are very uneven. This is because some members of the coalitions are more experienced and capable than others in carrying out, administering and sustaining projects. Thus the future of many NGOs will depend on the extent to which they develop their management capacity without de-emphasizing their political goals.

Conclusions and Recommendations

The year 1985 marked the start of a change in the strategy of governance in Guatemala, affecting both the legislation and some public institutions. A new constitution was promulgated, one that offers more complete safeguards for human rights. New institutions came into being to act as guarantors of the state's responsibilities in this area, including the Constitutional Court, the Office of the Human Rights Ombudsman (PDH) and the Supreme Electoral Tribunal. Legislative changes include a Criminal Procedure Code, an organic law for the public prosecutor's office and other minor laws.

These measures have afforded citizens the basic resources for obtaining justice. However, they still do not add up to a Guatemalan justice system based on the government's obligation to enforce and protect human rights by preventing, investigating, judging and punishing crimes. The aspects of the legal system relating to human rights legislation still lack cohesion and this weakness threatens to block any attempt to democratize government and society. The justice system is not independent; nor is it based on equality before the law or strict observance of due process.

One of the principal causes of these defects is that the use of force by the state is not subjected to the rule of law nor citizen control. The military continues to usurp some of the political functions proper to civil government and holds a monopoly on the discretionary use of force. This concentration of power has created a phenomenon of impunity and corruption that runs through the entire government apparatus, exacerbating the technical and professional weaknesses of the institutions charged with the administration of justice. The system neither monitors nor guarantees the probity of public servants, and it cultivates popular insecurity and distrust of government. Public servants share responsibility for this dysfunction.

The government's behavior has brought other changes in its relationship with the public. There is now greater tolerance of the freedom to dissent, organize politically and disseminate ideas. But the fact that the structure of public political participation has been kept intact makes these advances fragile. The Elections and Political Parties Law and the Municipal Code are inadequate for the nation's multiethnic composition. The former does not compel political parties to represent citizens and channel their demands responsibly to the government. The latter lacks provisions for supervising municipal politicians or guaranteeing communities direct input into local policies. These defects help propagate bossism, cronyism and corruption and render local organization vulnerable, especially in the regions affected by the internal armed conflict, where full guarantees of freedom of association and expression still do not exist.

The government is implementing a modernization and decentralization strategy that may raise the efficiency with which it manages resources and heighten its presence in the areas of the interior where the military has held supreme authority for many years. One sign of progress on this front is an increase in funding for municipalities. However, the government's procedures for implementing this strategy are not informed by consensus or intersectoral input. Its structural adjustment policies result from negotiations with the leaders of powerful economic groups and international financial organizations, not from agreements among societal sectors. Long-term strategies and policies for combating the extreme poverty and guaranteeing the social and economic rights of the majority of Guatemalans are still lacking.

The development with the greatest implications for the democratization of the state and society has been the peace process initiated with the mediation of the United Nations in January, 1994. The peace accords signed so far are suitable for furthering the transformation begun in 1985 because they address at least four authoritarian traditions:

1- Discrimination against and oppression of the Mayan people;

2- Concentration of power in the military and ensuing militarization;

3- Reduced autonomy, efficiency and professionalism of the three branches of government;

4- Absence of communication and negotiation mechanisms linking government to civil society.

One of the achievements of the peace accords has been to generate processes by which civic organizing and public participation are expanded, fostered and protected. Grassroots activities aimed at establishing links both among organizations and between them and the government include the denunciation of human rights violations, organization of the returnee community, recovering collective memory, publicizing the accords and conducting related civic education campaigns, as well as the incipient organization of the joint commissions.

The Asamblea de la Sociedad Civil (ASC) represents the first sustained effort in Guatemala's history to promote intersectoral communication and the social pact. The ASC has provided a counterweight to the elitist tendencies of the negotiations between the government and the URNG by proposing substantive solutions to national problems and by serving to consolidate public opinion. The ASC is also the primary locus of the political relationship between the state and the non-governmental sectors.

The long-term transcendence of the peace process depends on the persistence of some still fragile political conditions. The government must be willing to fulfil its commitments fully, while the URNG must be willing to obey international humanitarian law and stop using military methods to express its ideology and political positions.

But it is not the exclusive responsibility of these two players to guarantee the success of the peace process. The military and the private sector (big business) are also crucial in the drive towards full national reconciliation. The military has taken some steps to support the negotiations and put a stop to certain human rights violations for which it has been responsible. But in light of the considerable political power and legal privileges it still enjoys, these contributions and internal changes are still minimal.

Independent of the official peace process, the private sector has created a Peace Commission and proposed an agenda for the discussion of a strategy of national reconstruction. This initiative does not include a sufficiently broad group of sectors to make operational the private sector's expressed intent to negotiate. Its resistance to participating in the ASC and its interest in creating parallel forums make its call for national unity suspect.

The absence of mechanisms and the political will to achieve consensus among social sectors and between them and the government constrains the development of democracy in Guatemala and sustains an outmoded culture of non-violent cooperation. By the same token, persistent intolerance cuts across all types of organizations, restricting citizen involvement and altering values of sensitivity and self-esteem in the respect and enjoyment of rights.

One factor limiting the effectiveness of the peace process is that MINUGUA is virtually alone among internal groups in its verification of the Accords. Pressure by the international community to strengthen the rule of law is not seconded domestically by responsible government action and consistent pressure from within society. The ASC, the human rights organizations, the Human Rights Attorney General and a few media outlets are the actors that have been most persistently committed to monitoring and enforcement of the accords, but they have yet to coordinate their actions or pool their experiences.

Some social organizations have emerged whose work is motivated by a desire to play a part in changing the government's approach to the administration of justice. The atrophy of the justice system is one source of the prevailing intolerance in society. The human rights organizations have made an important and courageous contribution to the struggle against impunity and the edification of a true state of law. Their public involvement, both in legal forums and in the national and international media, has helped put a brake on abuses of power and human rights violations. To a lesser extent, these organizations have aided in the task of reorganizing the judicial institutions. Two positive features of these organizations are their ability to work together across sectors and their support for the reinforcement of public institutions.

Human rights is the principal theme driving national reconstruction, not only because it creates mechanisms for pressuring government but also because it reconstructs the social fabric. The NGOs, popular and union organizations have incorporated human rights education into their basic work. They have maintained their political impact by their active presence in public debate.

The organizations of civil society have had a lesser impact on social and economic policy-making. Two reasons for this were discussed above: the elite manoeuvring characteristic of the government's approach to these policies and, broadly speaking, the private sector's resistance to giving ground in these areas. The weak influence of the popular and non-governmental organizations also stems from their confrontational, anti-government stance toward the groups that hold power, to the exclusion of other approaches. This has hampered their ability to develop strategies for influencing public policy and caused negotiations with the private sector to go awry, reducing their activities to merely denouncing violations and criticizing the government.

The non-governmental and popular organizations have no lobbying experience. However, in the 1990s, they began a process of self-criticism which has been furthered recently by the experience of the ASC. Some goals emerging from this debate are: overcoming top-down institutional structures, the deconcentration of power, narrowing the gap between leaders and the grassroots, increasing knowledge of government, and strengthening coordination and unity among social sectors.

Various organizations of civil society have gained experience in organizing the people with whom they work. Of special note are the Mayan and women's organizations, which have undertaken education and consciousness-raising in efforts to foster participation and organization at the community level.

Women and the women's organizations involved in women's rights education are promoting comprehension and transformation of the inherited political culture. They explicitly address the need for consensus, tolerance, respect for differences and unity in diversity.

They question authoritarian and discriminatory styles of leadership. Their contribution has made for better and more effective discussion in open, multisector forums such as the unions, the NGOs and the ASC, and is altering — albeit gradually — the traditional predominance of men in leadership positions.

Mayan organizations, relative to the other sectors of civil society, are playing a particularly active role in the democratization of government and modifying the existing system of political participation. Their stake in the process lies in their need for opportunities to effectively transform the national system of political representation; for example, by creating alternative political parties that represent Indians' views.

Even as they acknowledged their differences of focus and action, the Mayan organizations staked out a position of historic importance with the creation of the Coordinating Organization of the Mayan Community (COPMAGUA). With the government, this body is jointly responsible for implementation of the Agreement on the Identity and Rights of Indigenous Peoples and is responsible for convening the various commissions. Its internal stability and capacity for achieving consensus will be decisive in effectively coordinating the implementation and verification of an instrument that will shape the destiny of the Mayan people and Guatemala as a whole.

The strong electoral showing of the Democratic Front for a New Guatemala (FDNG), a grouping of several dozen union, popular and Mayan organizations, could affect or promote the participation of most of the popular organizations described in this study. Prior to the founding of the FDNG, the popular and union movement devoted most of its energies to pressuring and criticizing the government. It constituted a virtual political opposition, yet had no existence as an official party. This emphasis on political activity left unaddressed the problems specific to each sector, although it did create room for popular influence over macro-level policy. The FDNG may become the political voice of many popular organizations traditionally aligned with the left. If so, these organizations may find their specific concerns subordinated to the interests of the party. However, a possible positive consequence is the training of new leaders, which may be a necessity since most FDNG leaders also hold leadership positions in its sector-based components. If the FDNG fails to promote the autonomy of its constituent organizations and subordinates their interests to the those of the party, and if it continues to concentrate power in its leaders, it will be in a poor position to support alternative processes that favour the democratization of society from below.

We are witnessing, therefore, a period of embryonic processes which favour the reconstruction of the social fabric. These include new forms of political opposition; new social actors with an interest in strengthening community; ethnic and gender-based organizations; and growing public opinion, spurred on by the efforts of the human rights organizations, that is learning to monitor the legal conduct of the authorities and shows an interest in creating a practice of respect for the rule of law.

During this period, all actions that nourish a culture open to dialogue and social change deserve wholehearted support. However, such actions will be unsustainable if all Guatemalan sectors and peoples do not collectively shoulder the responsibility for surmounting the most formidable obstacle to the establishment of a full-fledged democracy. This core obstacle is impunity. Until the judicial apparatus is thoroughly restructured and the security forces are compelled to respect human rights, it will be impossible to build the lasting foundations for integrated democratic development. The government's authority to demand compliance with the law will be compromised if it is unwilling to punish the officials and institutions that violate Guatemala's laws.

Impunity impedes the government from fulfilling its obligation to structure its policies around guarantees for the free exercise of rights. It casts a veil over the management of public affairs, feeds

public insecurity, and underlies the traditional abuses of power by military, political and economic groups. Impunity saps confidence in the law and in government as an agent of conflict resolution. It is at the root of the generalized public distrust of government. A combined effort by all sectors of society to eliminate the causes of impunity would create a powerful political consensus calling upon the government to demonstrate its political will to fully solve this national problem.

It is unthinkable that the peace process could achieve success while the causes of impunity persist. But neither can reconciliation be contemplated if policies designed to democratize economic structures and relationships are not implemented. There is an urgent need to open lines of communication among sectors so that a priority can be placed on meeting the needs of the poorest Guatemalans. This fundamentally depends on the private sector's willingness to make productive investments and obey fiscal laws. It also depends on the government's will to implement a non-exclusive development strategy for its programs and institutions that includes respect for the rights of women, children, the population affected by the armed conflict and the Indianss.

The year 1996 marked the start of a new era in government and heightened expectations for the imminent signing of the peace accords. The new government must make political stability a priority if the accords and its economic and social policies are to succeed. The government might therefore see the value in promoting consensus and intersectoral negotiations as well as in deterring foreseeable social conflicts fueled by decades of poverty.

As discussed above, joint strategies for combating impunity and democratizing economic relations should be given priority. In our view, the best way to support these strategies is to foster concrete initiatives to strengthen civil society. This will favour a deconcentration of power and help overcome the generalized societal inability to negotiate and reach agreements. Creating governability over the long-term requires active good will — the will of all sectors to be flexible and to assume responsibilities. We conclude this study by recommending initiatives for intersectoral coordination and impact that, although they are in no way innovative, have yet to be implemented in Guatemala. Our purpose here is also to offer an inventory of the basic interactions among organizations of civil society and the government for what will undoubtedly be a long-term process:

- Facilitate dialogue between the government, the ASC and CACIF to enable them to reach social pacts that take into account the peace accords and each sector's proposals on directions for government policy;
- Strengthen processes of coordination and cooperation among the government, the private sector, non-governmental organizations and other interested national and international sectors in order to define a national strategy for decentralizing government and strengthening the communities and municipal authorities;
- Coordinate intersectoral efforts to demand that the government implement the recommendations put forward by MINUGUA in its various reports, especially the one that discusses the definition and implementation of an integrated strategy to combat impunity; support the government in this area;
- With inter-sectoral coordination, conduct activities aimed at publicizing the current condition of the judicial institutions so as to broaden and strengthen public opinion calling for and proposing their transformation;
- Improve the capacity of the ASC to influence the transformation of the administration of justice through activities proposed and coordinated by the human rights organizations;
- Implement training in lobbying and organizing techniques so as to increase the influence of the ASC and non-governmental organizations on the three branches of government;

- Facilitate cooperation between the ASC and the government around setting up and operating the joint committees that are to enforce the peace accords, and
- Implement and support institutional development programs targeting the organizations of civil society (popular, union, non-governmental, women's, Mayan, etc.), to strengthen their capabilities in the areas of administration and finance, strategic planning and community impact; to support their drive to become more professional and democratic.

INTERVIEWS CONDUCTED IN 1994-1995 [238]

- Lic. Manfredo Marroquín, Fundación Myrna Mack.
- Asociación para la paz, la democracia y el desarrollo en América Central, APADDE. Víctor Ferrigno and Irene Sánchez, directors.
- CIDA, CANADA. Represented in Guatemala by Lic. Mario Marroquín,Programme Officer.
- James Fox, Canadian Ambassador to Guatemala.
- Asociación Cristiana de Jóvenes, ACJ. Lic. Jorge Escoto, Secretary General.
- Mtro. Edelberto Torres Escobar, political analyst.
- Enrique Ortego, Spanish journalist.
- MAJAWIL Q'IJ. Juan León, member of the Executive.
- Gustavo Porras, researcher for ASIES.
- Asociación de familiares de desaparecidos de Guatemala, FAMDEGUA, Marcia Méndez.
- Víctor Moreira, former director of the STINDE labour union. Currently working for INDE.
- COINDE, Helmer Velásquez, Coordinator.
- Oficina de Derechos Humanos del Arzobispado, ODHA. Carlos Aldana Mendoza and Ronalth Ochaeta.
- NUEVO AMANECER. Adolfo Herrera and Carlos Gómez, Directors.
- TIERRA VIVA. Carmen Lucía Pellicer, director, María Eugenia Lemus, Alma Odette Chacón.
- INSTITUTO DE ESTUDIOS INTERETNICOS, USAC. Dr. Jorge Solares, Director.
- GRUPO DE APOYO MUTUO, GAM. Nineth Montenegro, Director.
- Oficina de la Mujer, Procuraduría DDHH. Lic. Yolanda Aguilar.
- GRUPO GUATEMALTECO DE MUJERES, GGM. Olga Villalta and Ligia González.
- Centro de Investigación para el Desarrollo de Centroamérica, CIDECA. Jorge Mario Salazar, Armando Maldonado, Alberto Monterroso, members of the Board of Directors.
- Asamblea de la Sociedad Civil, Lic. Rolando Cabrera, Secretary.
- Dr. Víctor Gálvez Borrell, researcher at FLACSO.
- Voces de Mujeres, Mariel Aguilar.
- UNSITRAGUA. Byron Morales, Secretary General.
- Elizabeth Alvarez. Guatemalan feminist, member of Convocatoria.
- Comisión de Derechos Humanos de Guatemala, CDHG. Toribio Pineda and Víctor Martínez, members of the Board of Directors.
- Manuel Camposeco, representative of Hivos.
- CONFREGUA. Argentina Cuevas.
- Centro de Estudios y Educación Indígena. Francisca Alvarez, member of the Board of Directors.

238 Some of the interviews were carried out by Ms. Nina Torres.

- Coincidencia de Mujeres. Ana Leticia Aguilar, Office Manager.
- GRUFEPROMEFAM. Sonia Escobedo, Olga Rivas, Lorena Robles.
- Consejo de Mujeres Cristianas. Martha de Fuentes, Board of Directors.
- CENTRACAP. Ovilia Pelicó, Secretary to the Board of Directors.
- Academia de Lenguas Mayas. Florencio Simanchuy, International Relations Officer.
- Coordinadora Nacional Indígena y Campesina, CONIC. Pedro Esquina, Director.
- Miguel Angel Balcárcel, political analyst for INIAP.
- Instituto de Estudios Penales Comparados de Guatemala, IEPCG. Luis Ramírez and Claudia Paz, Directors.
- Convergencia de Mujeres. María Eugenia Mijangos.
- CONAVIGUA. María Canil, member of the Board of Directors.
- Cooperación para el desarrollo rural de occidente, CDRO. Virgilio Alvarado, Coordinator of the Department of Organization and Training, Totonicapán.
- Agua del Pueblo. Ing. Héctor Coyoy and Fabián Gonán, Directors.
- SERJUS. Mtro. Víctor Manuel Racancoj, Director, Quetzaltenango.
- Unidad de Asociaciones Microregionales, UAM. Pedro Zárate and Jaime Pacajoi, Directors.
- CADISOGUA. Coordinadora de Asociaciones de Desarrollo del Suroccidente, Juan Daniel Villatoro, Secretary General.
- FUNDADESE. Rigoberto García and Enrique Abraham López, Technical team.
- Unión de Trabajadores de Quetzaltenango, UTQ. Roberto Barrios, Osvaldo Saquicz, Demetrio Mártir Alvarado, Julio Días, Coordinators.
- Procuraduría DDHH. Tibaldo Ricardo Gámez, Auxiliary for the Department in Huehuetenango.
- EPRODER. Ludy Martínez y Lilian Hernández, Technical team.
- Pastoral Social de Huehuetenango. Patricia Ispanel.
- ECOMADI. José Yac, Director.
- FUNDADESE Chichicastenango. María Riquiac Morales, Director.
- CCAM, Chichi. José Maria, Director.
- Concejo de Mujeres Mayas, CMM. Paula Chopen de Ortíz and MaríaLuisa Curruchiche. Chimaltenango.
- Centro de Cultura Maya SAQB'E. Francisco Noj and Leopoldo Méndez, Directors .
- COMG. Mariano Cox, Director.
- Grupo de Mujeres UITA-FESTRAS. Rosa Escobar, Lorena Robles and Flor de María Salguero.
- ADEPAC. Juan Quiñónez, Director.
- FUNDACION MYRNA MACK. Helen Mack, Director .
- Centro de Estudios de la Cultura Maya, CECMA. German Curruchiche, Director.
- Asociación de Estudiantes Universitarios, AEU. Victor Hugo Gudiel, Secretary General and Claudia Acevedo, Women's Issues.

- Rodrigo Carrillo, journalist for Siglo XXI.
- Georgina Navarro, Foro Cívico Político de Mujeres.
- Factor Méndez, CIEPRODH.
- Richard Nuccio, Assitant to the Secretary of State for Latin America, State Department for the United Nations.
- Ricardo Stein, PNUD-Guatemala.
- Rosa María Wanda, Convergencia Cívico Político de Mujeres.
- Gustavo Meoño, Claudia Samayoa, Fundación Rigoberta Menchú.
- Carmen Rosa de León, IEPADES.

SUMMARY OF THE FORUM ON DEMOCRATIC DEVELOPMENT: STATE-CIVIL SOCIETY DIALOGUE

A steering Committee of a dozen Guatemalan organisations from civil society worked with the Centre to design and organise the Democratic Development Forum on the theme of "State- civil society dialogue" on April 11 in Guatemala City. The Steering Committee included representatives of three sectors of the Assembly of Civil Society (ASC)- Copmagua, the research centres and the women's organisations - as well as ASIES,Centro de Defensa de la Constitucion, Convergencia Civico-politica de Mujeres, CECI- Fondo de Desarrollo Democratico, la Defensoria de la Mujer de la Procuraduria de Derechos Humanos, Fundacion Myrna Mack, Oficina del Arzobispado para los Derechos Humanos, la Procuraduria de Derechos Humanos, UNDP. CACIF had also been invited to participate, but did not attend any of the meetings.The steering committee decided that the most appropriate theme for the Forum, given the recent elections in the country, would be the issue of state-civil society dialogue. This key area of democractic development was underlined in the body of the study, but it had not previously been publicly aired in the country. Two working sessions were held subsequent to the Forum - one with women's organisations and the other with policy research centres - to discuss follow-up process and programming strategies.

At the Forum 350 members of government, the military, the church, political parties, trade unions, NGOs and popular organisations as well as a sprinkling of academics, businesspeople, journalists and representatives of the United Nations and the diplomatic community, turned out to debate the future of constructive State-civil society relations. Panellists came from government, the military, the judiciary, the business community and the Assembly of Civil Society.

Carmen Rosa de Leon Escribano, as coordinator of the Steering Committee, acted as Master of Ceremonies. Mr.Edward Broadbent (President of the International Centre for Human Rights and Democratic Development), welcomed the participants and spoke of the International Centre's approach to democratic development, and the importance it places on three key aspects: the intimate link between human rights and democracy; the fundamental role of civil society in ensuring the existence of a flourishing democracy; and the necessity of fluid mechanisms and practices of State- civil society dialogue. He remarked also in the impressive strides towards demoracy that he had witnessed in his visits to Guatemala over the past few years, feeling that for the first time there is real cause for optimism here.

Mr. Francisco Villagrán de León (Ambassador of Guatemala to Canada), spoke of the fact that Canada in its realtions with Guatemala has taken a particular interest in socio-economic and in human rights issues. He has noticed the high level of exchange between Canadian NGOs and their government, and is convinced that the International Centre can serve as a vehicle to facilitate the transfer of some of this experience to Guatemala. He also cited the Centre's recent initiative in developing a dialogue on trade and human rights with the Canadian business community as an interesting new thrust for civil society. Ms. Arscely Conde (member of the Guatemalan government peace negotiations team)welcomed the event, as the Government considers this type of occasion to be important in the consolidation of the democratic challenge. Decisive support from civil society is necessary in the undertaking to forge an alliance between the State and civil society. She considered the study itself to be a useful contribution, particularly in its analysis of electoral participation, women's participation, and the issue of ethnic identity.

The panel itself was preceded by a presentation by Tania Palencia of the principal findings of the study, but she first pointed out that the underlying objective of the whole process in her view was to promote debate amongst social actors that have little direct knowledge of one another. The major conclusions of the study were that despite an impressive movement towards organisation of the population in recent years, democratisation is seriously hindered by a reign of impunity. It also

underlined the importance for widening the democratic spaces in Guatemala of promoting and structuring policy dialogue between the State and civil society.

The panel was moderated by Mr. Ricardo Stein, of the UNDP. In his introduction to the discussion, he noted a series of challenges at this historic juncture in Guatemala. Amongst them were the broadening of spaces for political dissent as well as participation, new strategies for strengthening civil society in conjunction with the modernisation of the State, the role of the peace negotiations in changing traditional patterns of behaviour in the public sphere, the substantive contribution of social debate to reformulating the role of the State and in moving beyond the inner circles of decision-making - in short, we are looking at a new conception of our identity and of social citizenship. Democratisation must be economic as well as political.

Mr. Guillermo Mendez, representing CACIF, the umbrella organisation of business associations, stated that development is the best support to democracy, as well as the best business strategy. In order for the State to be an ally of development, it must modernise, and it must affirm the rule of law and give priority to those rights which pre-exist the State (right to life, freedom, property). He underlined the need for a strong State as an ally of development which would benefit all Guatemalans both economically and politically, and affirmed that a weak State cannot withstand decentralisation and privatisation.

Mr. Gabriel Aguilera, Deputy Minister of Foreign Relations, saw the present government as the last one in the period of transition towards democracy. Authoritarianism generates the manipulation of the State for private ends, and civil society understandably has a reticent attitude towards the State at this time. But the peace agreements are entering a final phase of negotiation, and they will be characterised by their audacity and their realism. Civil society needs a system of political parties in order to ensure its voice in a democratic society, and to ensure the pluralism necessary for democracy

General Sergio Camargo, Army Chief of Staff, argued that the problem in Guatemala has always been that Guatemalans defined themselves "against", rather than "for". Now, for the first time, Guatemala is deciding on its own future, and that the direction of that reflection has been set by civil society and has obliged the State to rethink its role. For their part, the Armed Forces are now clear on the fact that they cannot substitute themselves for civil authority.

Supreme Court Justice Angel Figueroa considered that the Centre's study was unfair in its harsh criticism of the administration of justice. In his view, the problems cannot be imputed to specific individual or institutional responsibility: they are rather problems of lack of human and material resources and must be addressed on those terms.

Ms. Maria Antonieta Castillo, representing the Assembly of Civil Society, spoke of the fact that the the Constitution of 1985 created new openings for civil society. And now, the peace process and the agreements - as a product of diverse interests in society - must be seen as the basis for the construction of a new nation. The experience of the Assembly itself is a first for Guatemala, and has contributed to the creation of a spirit of tolerance. The Assembly sees itself as becoming a watchdog for the implementation of the peace agreements.

The ensuing debate with the audience highlighted the fact that, despite the obvious optimism of the panellists regarding the democratic future of the country, many problems remain to be discussed. These include issues such as the role of the church, the definition of a modern State, the role of the indigenous population, and the attitude towards a human rights amnesty.

The closing word was pronounced by Mr. James Fox (Ambassador of Canada to Guatemala), who mentioned that democratic development is Canada's principal concern in its support to

Guatemala, and that there is a direct link with sustainable development. He agreed on the importance of a strong civil society, and illustrated his remarks by saying that civil society and the State are two sides of the same coin and they must be linked by a creative dialogue, operating through many mechanisms. Diversity is esential in this process, just as it is in the intricacy of a hand-woven huipil.

In follow-up meetings with organisations from civil society and representatives of government, the Forum was judged to be a success, and the Centre was encouraged to pursue in the same line of action by organising further fora involving the same institutions, but in a more focussed manner. The elements of the Centre's future programming, then, which emerged from the Forum, the working sessions and the follow-up discussions will be: first, reinforcing state - civil society dialogue and mechanisms for dialogue, in particular but not exclusively on the issue of impunity and, second, the field of promotion of women's rights as human rights.

The International Centre for Human Rights and Democratic Development sincerely thanks all those who contributed to making this initiative a success.